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LA DIREZIONE SPIRITUALE COME RELAZIONE DI AIUTO

Ionut Eremia IMBRIȘCĂ*

Abstract: This article, entitled *The spiritual direction as a relationship based on offering help* highlights the task of the Spiritual Director, who walks alongside the seminarian, aiding him in the art of discernment. This ongoing process is always under the guidance of the Holy Spirit, who works through the gifts of the Spiritual Director and the seminarian. In this article, we will begin with the fact that, in order to accompany someone in spiritual growth it is necessary to engage well in a period of discernment. Both spiritual direction and discernment bear fruit under the guidance of the Holy Spirit.

Key words: spiritual direction, Spirit of God, the seminarian, relationship, priestly vocation.

Introduzione

In questo articolo svolgerò il tema relativo alla direzione spirituale nel Seminario diocesano quale cammino di accompagnamento. Diciamo che il termine “accompagnamento” è più adeguato per indicare il compito della direzione spirituale nel Seminario perché da una parte lascia più spazio alla riflessione personale del seminarista e d'altra, ambi due – l'accompagnatore e l'accompagnato –, si lasciano guidati dallo Spirito di Dio. L'accompagnamento è un'arte e come ogni arte richiede un lavoro continuo, un esercizio, una riflessione, un discernimento. Tuttavia, essendo un accompagnamento spirituale, richiede anche tanta preghiera, realtà capace di favorire la relazione con lo Spirito di Dio, colui che permette la lettura della vocazione nel cuore del seminarista. Lungo il cammino, il seminarista scopre che l'accompagnamento spirituale è un aiuto a vivere la vita spirituale in profondità: infatti, il seminarista «cerca di nascere e di rinascere ad un livello più intimo del suo essere, ed ha vagamente sentito che l'accompagnatore a cui si rivolge lo può aiutare a partorire questa vita in lui»¹. Visto così, possiamo dire che l'accompagnamento spirituale rappresenta un evento che si svolge all'interno di una relazione umana concreta tra l'accompagnatore e l'accompagnato sotto la guida dello Spirito Santo².

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¹ A. LOUF, *Generati dallo Spirito*, Magnano 1994, 60.

² P. MAGNA, «Accompagnamento: la voce del Signore tra mille», *Tredimensioni* 11 (2014) 62.

Nel cammino verso il sacerdozio il seminarista viene accompagnato da un direttore spirituale, per essere aiutato a crescere nell'unione con Cristo sotto l'azione dello Spirito. Il direttore spirituale viene incontrato regolarmente per mantenere vivo l'ardore spirituale, così necessario nel cammino verso l'ordinazione ministeriale. La direzione spirituale non è solo una relazione di aiuto, ma è anche una grazia per i periodi di difficoltà o di crisi nel cammino di crescita spirituale. Partiamo dalla domanda: *Chi è il padre spirituale?* Possiamo rispondere affermando che è «un uomo di consiglio che sa discernere insieme ai suoi diretti la volontà di Dio»³. Se per santa Teresa d'Ávila il direttore spirituale è quella persona ricca di scienza e di santità⁴, per san Francesco di Sales, invece, il direttore spirituale è un persona «piena di carità, di scienza e di prudenza»⁵. Papa Benedetto XVI parlando della direzione spirituale disse che questa è stata, lungo la storia, uno dei mezzi più apprezzati nella Chiesa per promuovere la crescita spirituale:

Come non ha mai smesso di fare, ancora oggi la Chiesa continua a raccomandare la pratica della direzione spirituale, non solo a quanti desiderano seguire il Signore da vicino, ma ad ogni cristiano che voglia vivere con responsabilità il proprio Battesimo, cioè la vita nuova in Cristo. Ognuno, infatti, e in modo particolare quanti hanno accolto la chiamata divina ad una sequela più prossima, necessita di essere accompagnato personalmente da una guida sicura nella dottrina ed esperta nelle cose di Dio; essa può aiutare a guardarsi da facili soggettivismi, mettendo a disposizione il proprio bagaglio di conoscenze ed esperienze vissute nella sequela di Gesù. Si tratta di instaurare quello stesso rapporto personale che il Signore aveva con i suoi discepoli, quello speciale legame con cui Egli li ha condotti, dietro di sé, ad abbracciare la volontà del Padre (cfr. *Lc* 22,42), ad abbracciare, cioè, la croce⁶.

³ A. MERCATALI, «Padre spirituale», in S. DE FIORES – T. GOFFI, ed., *Nuovo dizionario di spiritualità*, Milano 1985, 1997⁷, 1133.

⁴ «Io ho sempre amato di avere confessori istruiti, perché dai semidotti, a cui in mancanza d'altri dovevo ricorrere, l'anima mia ebbe sempre del danno. So per esperienza che quando si tratta di uomini virtuosi e di santa vita, è meglio che siano del tutto ignoranti che dotti a metà, perché allora né essi si fidano di sé, ricorrendo ai competenti, né io mi fido di loro. I veri dotti non mi hanno mai ingannata. Neppure gli altri mi volevano ingannare, ma non ne sapevano di più» (TERESA DI GESÙ, *Libro della vita*, V.3, Roma 1992⁹, 64).

⁵ «A tal fine, sceglietene uno fra mille, dice Avila. Uno fra diecimila, dico io; dato che sono meno di quanto si pensi gli uomini all'altezza di un compito simile. Deve essere pieno di carità, di scienza e di prudenza: se gli manca una delle tre, la faccenda si fa pericolosa. Ma, ve lo ripeto, chiedetelo a Dio, e una volta ottenutolo, benedite la divina Maestà, mettetevi in pace e non cercatene i altri, ma andate avanti con semplicità, umili e fiduciosi, perché farete un felicissimo viaggio» (FRANCESCO DI SALES, *Filotea. introduzione alla vita devota*, Milano 2000¹⁰, 31).

⁶ BENEDETTO XVI, *Discorso alla comunità della Pontificia Facoltà Teologica "Teresianum" di Roma*, Roma 2011.

La direzione spirituale, essendo svolta sotto la guida dello Spirito Santo, non può essere ridotta ad una semplice tecnica terapeutica, ma va compresa, nel suo esercizio, come un'arte implicante genialità e creatività personale. Tuttavia, non dobbiamo dimenticare che «il vero direttore è sempre Gesù»⁷ e noi siamo strumenti nelle sue mani.

L'insegnamento del magistero della Chiesa, l'identità del direttore spirituale, gli atteggiamenti del seminarista nella direzione spirituale e il cammino fatto insieme sono gli aspetti che cercheremo di analizzare in questo articolo. Siamo consapevoli che, sia il discernimento, sia la direzione spirituale si compiono sotto la guida dello Spirito Santo.

1. L'insegnamento del magistero della Chiesa

I documenti del Magistero della Chiesa inerenti alla formazione sacerdotale sono notevolmente aumentati nell'ultimo secolo. Questo dimostra la preoccupazione della Chiesa sulla formazione sacerdotale, affinché possa rispondere alla necessità dei tempi, infatti tanto i documenti conciliari⁸ quanto quelli del magistero successivo al Concilio⁹ né largiscono l'orizzonte con il riferimento anche alla direzione spirituale. Questi documenti manifestano un interesse maggiore alla riflessione sulla natura, sulle finalità e sui ruoli diversi che la direzione spirituale svolge nella vita della Chiesa. Proprio per questo possiamo affermare che i documenti del Magistero della Chiesa sulla formazione sacerdotale mostrano una valorizzazione della direzione spirituale.

Nel Seminario viene percepita come una manifestazione dello Spirito Santo, data per aiutare il seminarista a discernere la volontà di Dio e per

⁷ R.L. FARICY – L. PECORAIO, *Preghiera contemplativa e direzione spirituale*, Bologna 2010, 108.

⁸ Il Concilio Vaticano II parla, in modo concreto, della direzione spirituale in quattro documenti: il Decreto sulla formazione sacerdotale *Optatam Totius*, nn. 3. 5. 8. 19. 22; il Decreto sul ministero e la vita sacerdotale *Praesbyterorum Ordinis*, nn. 6. 9. 11. 18; il Decreto sul rinnovamento della vita religiosa *Perfectae Caritatis*, nn. 14. 18. 24; ed il Decreto sull'apostolato dei laici *Apostolicam Actuositatem*, n. 30.

⁹ Alcuni dei principali documenti postconciliari che riguardano la direzione spirituale: CONGREGAZIONE PER L'EDUCAZIONE CATTOLICA promulga: *Ratio Fundamentalis institutionis sacerdotalis* (gennaio 1970), nn. 27-31. 55; *Orientamenti educativi per la formazione al celibato sacerdotale* (11 aprile 1974), nn. 37. 43. 61; *Formazione spirituale nei seminari* (6 gennaio 1980), n. 3; *La preparazione degli educatori nei seminari. Direttive* (4 novembre 1993), nn. 44. 61; CODEX JURIS CANONICI, (25 gennaio 1983) can. 239, §. 2; can. 240; can. 246, §. 4; can. 719, §. 4; GIOVANNI PAOLO II, Esortazione apostolica *Christifideles Laici* (30 dicembre 1988), nn. 56. 58d.; Esortazione apostolica *Pastores dabo vobis* (25 marzo 1992), nn. 40c. 50d e f. 66d. 81c.; Esortazione apostolica *Vita Consecrata* (25 marzo 1996), nn. 39b. 44b. 58d. 64d. 66. 95c. 103.; CONGREGAZIONE PER IL CLERO, *Direttorio per il ministero e la vita dei presbiteri* (31 gennaio 1994), nn. 54. 76;

accompagnarlo progressivamente verso la maturità umana e spirituale in Gesù Cristo.

Il Decreto sulla formazione sacerdotale *Optatam Totius* parla della formazione spirituale nel ambiente dei seminari e chiarisce il ruolo che l'ha il direttore spirituale:

La formazione spirituale deve essere strettamente collegata con quella dottrinale e pastorale e, specialmente con l'aiuto del direttore spirituale, sia impartita in modo tale che gli alunni imparino a vivere in intima comunione e familiarità col Padre per mezzo del suo Figlio Gesù Cristo, nello Spirito Santo¹⁰.

L'esortazione apostolica post sinodale *Pastores dabo vobis*, sulla formazione dei sacerdoti nelle circostanze attuali, parla della direzione spirituale sottolineandone l'importanza per le vocazioni sacerdotali:

È necessario riscoprire la grande tradizione dell'accompagnamento spirituale personale, che ha sempre portato tanti e preziosi frutti nella vita della Chiesa: esso può essere aiutato in determinati casi e a precise condizioni, ma non sostituito, da forme di analisi o di aiuto psicologico. I ragazzi, gli adolescenti e i giovani siano invitati a scoprire e ad apprezzare il dono della direzione spirituale, a ricercarlo e a sperimentarlo, a chiederlo con fiduciosa insistenza ai loro educatori nella fede. I sacerdoti, per parte loro, siano i primi a dedicare tempo ed energie a quest'opera di educazione e di aiuto spirituale personale: non si pentiranno mai di aver trascurato o messo in secondo piano tante altre cose, pure belle e utili, se questo era inevitabile per mantenere fede al loro ministero di collaboratori dello Spirito nell'illuminazione e nella guida dei chiamati¹¹.

La direzione spirituale viene riscoperta e valorizzata negli ultimi cinquant'anni, così come emerge dai documenti conciliari e quelli magisteriali post-conciliari.

2. L'identità del direttore spirituale

La consapevolezza dell'importanza del direttore spirituale nell'accompagnamento del seminarista spinge a porre la nostra attenzione proprio sulla persona che compie tale ministero. È molto importante «che il Padre spirituale sia una persona matura a livello sia umano che spirituale, e che

¹⁰ CONCILIO VATICANO II, *Decreto sulla formazione sacerdotale Optatam Totius*, Città del Vaticano 1965, 8.

¹¹ GIOVANNI PAOLO II, *Esortazione apostolica Pastores dabo vobis*, 40c. Inoltre, al numero 50f è scritto: «[...] Il seminarista deve avere un adeguato grado di maturità psichica e sessuale, nonché una vita assidua ed autentica di preghiera, e deve porsi sotto la direzione di un padre spirituale. Il direttore spirituale deve aiutare il seminarista perché egli stesso giunga ad una decisione matura e libera [...]».

abbia la possibilità di acquisire una specifica formazione al colloquio di aiuto spirituale»¹².

La guida spirituale è lei stessa aperta al consiglio e alla luce, lei stessa vive un'intensa vita di preghiera, lei stessa è pronta ad ascoltare, a consultare gli altri, ad accogliere l'altrui saggezza; sa "leggere" nella profondità del cuore altrui e, lì sa contemplare l'azione provvidente di Dio perché lei stessa impara, continuamente, a leggere il proprio cuore in verità e a guardare in esso, con stupore, la grazia di Dio all'opera¹³.

2.1. Una guida che conosce se stessa

Il direttore spirituale, prima di iniziare ad accompagnare qualcuno, è chiamato a svolgere un profondo lavoro su di sé. L'immagine della guida alpina che accompagna coloro che vogliono salire sulla montagna è molto bella: infatti, questa guida, prima di accompagnare altre persone verso la cima della montagna, deve aver fatto lo stesso cammino per poter guidare gli altri. Facendo prima quella strada conosce gli ostacoli e può indicare le vie migliori. Anche per il cammino interiore si chiede lo stesso tipo di allenamento, infatti la guida spirituale deve essere esperta nella propria autoconoscenza, facendo lei stessa lo stesso cammino richiesto agli altri, per poterli accompagnare lungo questa faticosa via. Ovviamente non è richiesto che il direttore spirituale sia perfetto, o che abbia risolto subito tutti i suoi problemi, ma si richiede una buona conoscenza delle proprie aree di vulnerabilità. Così, il direttore spirituale, conoscendo queste aree della sua vita, non mescola il suo ruolo professionale con i possibili problemi personali¹⁴. Visto così, possiamo dire che ogni incontro nella direzione spirituale aiuta anche il direttore spirituale di conoscersi meglio, infatti la sua autenticità e a disponibilità a mettersi in gioco, nascono dal clima favorevole dell'incontro nella direzione spirituale¹⁵.

2.2. La scienza necessaria

Il direttore spirituale, «oltre alle sue doti spirituali, deve possedere in grado significativo la scienza teologica di base e una sufficiente formazione specifica, dottrinale e pratica, nel settore della vita spirituale»¹⁶. Perché

¹² B. GIORDANI, *La psicologia in funzione pastorale: metodologia del colloquio*, Brescia-Roma 1981, 183.

¹³ D.G. GIULIANO, «Discernimento e vita cristiana», *Rivista di Vita Spirituale* 58 (2004), 629.

¹⁴ B. GOYA, *Aiuto fraterno. La pratica della direzione spirituale*, Bologna 2006, 19-20.

¹⁵ Cf. B. GOYA, *Luce e guida nel cammino. Manuale di direzione spirituale*. Bologna 2004, 21-123.

¹⁶ R. FRATTALLONE, *Direzione spirituale. Un cammino verso la pienezza della vita in Cristo*, Roma 2013, 258.

svolge una missione di educatore, lui deve essere aggiornato anche sui contributi delle scienze psicologiche e pedagogiche. Lui non deve essere esperto nelle scienze psicologiche e pedagogiche, ma deve essere abbastanza aggiornato. Dal direttore spirituale si chiede di essere capace a vedere se il seminarista che chiede aiuto è capace di affrontare con equilibrio le problematiche psichiche e spirituali. Durante il colloquio il direttore spirituale non è chiamato a dare il proprio parere, anche perché dev'essere consapevole che «le persone e i loro problemi portano sempre qualcosa di nuovo e di misterioso che trascende sia la scienza dei libri che la propria esperienza passata»¹⁷.

2.3. *Le doti spirituali del direttore spirituale*

Il direttore spirituale prima di essere una guida, è una persona coinvolta in un cammino spirituale, lasciando spazio libero all'azione dello Spirito Santo. Questo, essendo un uomo spirituale, pieno di Spirito Santo (“pneumatikòs”), affida il suo lavoro all'azione dello Spirito che opera nei nostri cuori¹⁸. Così che, la dote caratteristica del direttore spirituale diviene l'umiltà che aiuta ad apprezzare i doni che la terza Persona della Trinità riversa nei nostri cuori. «L'umiltà sincera e semplice lo convincerà che non può pretendere di poter risolvere da solo tutti i problemi, e lo spingerà a ricercare la collaborazione degli altri esperti di settore»¹⁹. Guidare le anime è un compito accompagnato da una grazia che Dio offre a coloro che sono chiamati a questo lavoro: «Quelli che Dio sceglie per una missione, li prepara e li dispone in modo tale che risultino idonei ad adempiere la missione per la quale sono stati scelti»²⁰. Il fatto di essere consapevole che l'unico maestro è Cristo (Mt 23,6-10), aiuta il direttore spirituale ad accettare umilmente i suoi limiti. «Il vero maestro non ha nessuna pretesa. Soltanto attraverso l'esperienza potrà scoprire di essere in grado di guidare qualcuno»²¹.

¹⁷ R. FRATTALLONE, *Direzione spirituale. Un cammino verso la pienezza della vita in Cristo*, 260-261. La stessa idea viene sviluppata in un modo simile di Y. Raguin che fa riferimento a Sant'Ignazio: «È ciò che afferma s. Ignazio negli Esercizi spirituali quando definisce il ruolo di chi aiuta la persona che fa il ritiro: il suo compito è di aiutarla a mettersi nelle disposizioni migliori possibili per fare l'esperienza dell'azione divina. Per chi “dirige” il ritiro non si tratta dunque di imporre pensieri, considerazioni o sentimenti, qualunque essi siano. Egli infatti non sa come la persona che fa il ritiro sarà trattata da Dio. Tutto quello che può fare è mostrarle la strada, illuminandola come meglio può, e invitarla a mettersi in cammino. Il presupposto è che se la persona si mette nelle debite condizioni avvertirà l'azione di Dio» (Y. RAGUIN, *Maestro e discepolo. La direzione spirituale*, Bologna 1987, 132-133).

¹⁸ Cfr. CH.A. BERNARD, *Aiuto spirituale personale*, Roma 1978, pp. 45-52.

¹⁹ R. FRATTALLONE, *Direzione spirituale. Un cammino verso la pienezza della vita in Cristo*, 259-260.

²⁰ F. CARVAJAL, *La direzione Spirituale: Come, perché, per chi e da chi*, Milano 2011, 15.

²¹ Y. RAGUIN, *Maestro e discepolo. La direzione spirituale*, 37.

2.4. Le disposizioni di base

Carl Rogers ha offerto un grade contributo al colloquio, infatti relativamente alla centralità della persona umana parla di tre disposizioni che devono caratterizzare colui che ha il compito accompagnare: l'autenticità, l'empatia e l'accettazione incondizionata²².

L'autenticità consiste nel conoscere noi stessi così come siamo, nell'accettare anche gli aspetti negativi che si riscontrano in noi e nell'avere la franchezza di presentarci agli altri a volto scoperto, evitando di nasconderci dietro di ruolo. Un padre spirituale autentico, sarà capace di instaurare un rapporto libero e genuino con se stesso, con gli altri [...]. Un Padre spirituale profondamente autentico stimola efficacemente le persone a diventare se stesse; la fiducia conquistata che egli nutre per loro, le aiuta ad avere fiducia in se stesse; l'amore sincero che egli dimostra loro, le convince di essere degne di amore e le apre all'amore altruistico; la fede in Dio e la sicurezza del suo aiuto ingenera fede e sicurezza in chi si è allontanato da Dio²³.

L'empatia. Durante il colloquio è molto importante che il direttore spirituale comprenda empaticamente la persona che chiede aiuto, liberandosi dalla preoccupazione che durante la seduta devono essere offerte necessariamente soluzioni, oppure messe in pratica delle teorie. «Solo chi è disposto a ricevere, a guardare l'altro come portatore di un dono, diventerà veramente accogliente»²⁴. Essere accogliente non significa che il direttore spirituale deve identificarsi con i sentimenti dell'altro, infatti «Se il Padre spirituale giunge a questo coinvolgimento emotivo, non sarà più in grado di aiutare l'altro a comprendere la propria situazione e a prendere posizione in modo da superarla»²⁵. Per questo motivo è necessario che il direttore spirituale, per poter aiutare, mantenga una «distanza psicologica».

L'accettazione incondizionata è un'altra disposizione richiesta al direttore spirituale. Questa ha la forza di risvegliare, nell'individuo che chiede aiuto, «sentimenti di sana soddisfazione, di accettazione gioiosa di sé, di fiducia nelle proprie capacità, di impegno generoso»²⁶.

2.5. Interventi inadeguati

Durante il colloquio, tra il direttore spirituale e il seminarista, è necessario prestare attenzione ad alcuni atteggiamenti sbagliati che l'accompagnatore dovrà evitare. Per esempio si devono evitare: *l'imposizione e la*

²² C. ROGERS, *La terapia centrata sul cliente*, Molfetta 2007, 54-58.

²³ B. GIORDANI, *Il colloquio psicologico nella direzione spirituale*, Roma 1992, 100.

²⁴ B. GOYA, *Aiuto fraterno. La pratica della direzione spirituale*, 21.

²⁵ B. GIORDANI, *Il colloquio psicologico nella direzione spirituale*, 108.

²⁶ B. GIORDANI, *Il colloquio psicologico nella direzione spirituale*, 108.

proibizione perché indicano un certo autoritarismo e mettono il seminarista in stato di dipendenza passiva; *l'esortazione* perché lascia poco spazio alla riflessione personale; *il consiglio e la persuasione* perché attira il seminarista alle idee del direttore spirituale; *la rassicurazione* perché minimizza alcuni aspetti che l'individuo sente come essere gravi o minacciosi; *la proposta di soluzioni* che offre saggi consigli e soluzioni sicure ai diversi problemi. Tutti questi atteggiamenti sbagliati non danno fiducia alla persona che chiede aiuto e rischiano di sviluppare la dipendenza e la passività²⁷.

3. Gli atteggiamenti del seminarista nella direzione spirituale

Il seminarista che chiede aiuto nutre in sé stesso delle attese nei confronti del direttore spirituale. Nello stesso tempo il seminarista deve coltivare alcuni atteggiamenti oppure doveri durante gli incontri, infatti non può limitarsi alle sole attese, ma deve coltivare anche alcuni atteggiamenti.

3.1. Atteggiamenti psicologici e spirituali

Gli atteggiamenti che il seminarista è chiamato a coltivare nella direzione spirituale riguardano gli aspetti psicologici e spirituali. Se gli atteggiamenti psicologici riguardano il modo in cui il seminarista fa la valutazione di se stesso, guardando ai propri limiti e alle proprie doti in un modo oggettivo, gli atteggiamenti spirituali, invece, riguardano il modo in cui il seminarista è disposto all'apertura dello Spirito Santo e del direttore spirituale. Viene valutato «se la persona possiede la capacità di ascolto interiore nei confronti delle mozioni dello Spirito Santo e nella attenzione grata e accogliente nei confronti degli altri, a partire dalla guida»²⁸.

3.2. Atteggiamenti verso la guida spirituale

Il seminarista è chiamato a coltivare gli atteggiamenti non solo verso la propria persona, ma anche verso il direttore spirituale. La *sincerità* è il primo atteggiamento richiesto che aiuta, prima di tutto, a stabilire una comunicazione tra la guida e la persona guidata. La *fiducia* è l'atteggiamento che viene sviluppato e cresce con il tempo, infatti non è pretendibile una grande fiducia sin dall'inizio tra il direttore spirituale e il seminarista però, è auspicabile il suo sviluppo con il passare del tempo. Un altro atteggiamento è quello del *rispetto*, strettamente collegato con i primi due: la sincerità e la fiducia. Il rispetto ha il ruolo di mantenere il direttore spirituale e il

²⁷ B. GOYA, *Aiuto fraterno. La pratica della direzione spirituale*, 26-27.

²⁸ R. FRATTALLONE, *Direzione spirituale. Un cammino verso la pienezza della vita in Cristo*, 261.

seminarista sulla strada giusta nel processo dell'accompagnamento. Infine vi è la *docilità* agli interventi del direttore spirituale che viene collegata con l'ascolto interiore dello Spirito Santo²⁹.

3.3. *Attese e diritti del seminarista*

Nella direzione spirituale, oltre alle attese, vanno rispettati anche alcuni diritti di cui può godere il seminarista. Tra questi ricordiamo: essere accolto come persona; essere accettato così come si è; essere compreso; essere libero di esprimersi e di decidere; essere sicuro del segreto professionale. Questi sono alcuni diritti che devono essere rispettati nella direzione spirituale da parte del direttore spirituale³⁰.

4. Camminare insieme

Nella direzione spirituale il direttore e il seminarista che viene accompagnato si trovano a percorrere lo stesso cammino verso il Signore. Il fatto di camminare insieme aiuta a pensare a Cristo come colui che, durante la sua vita terrena, è stato in costante cammino verso il Padre. Per i discepoli seguire Cristo ha significato camminare con lui: «Maestro e discepolo hanno in comune la stessa ricerca di Dio, lo stesso desiderio di trovarlo, la stessa consapevolezza di non aver ancora raggiunto la meta»³¹.

Un'altra immagine che permette di precisare la qualità di questa relazione è quella usata da Socrate, la *maieutica*, tecnica che sintetizza il suo lavoro pedagogico. Questa permette di far giungere il discepolo alla verità, sotto la guida del maestro. Maieutica, si sa, è il nome dato all'abilità della levatrice che assiste al parto di una nuova vita: non è lei che dà la vita, semplicemente la favorisce, ne facilita il giungere a termine. Come tale, ogni vita si propaga da sé e naturalmente, infatti per venire al mondo, in genere, il feto non necessita di una spinta dall'esterno. Nella maggior parte dei casi, tuttavia, l'intervento della levatrice, per quanto discreto possa restare, si rivela utile, anzi auspicabile. Essa sorveglia l'operazione, prevede e previene gli ostacoli, favorisce certe tappe. Lo stesso avviene, per analogia, per il ruolo dell'accompagnatore spirituale. Anche costui assiste a un parto: il venire alla luce di una nuova creatura nello Spirito santo. Si tratta di una vera e propria nascita o rinascita³².

È importante allora che il direttore spirituale e il seminarista viaggino insieme «come due amici che camminano verso la stessa meta, la mano

²⁹ R. FRATTALLONE, *Direzione spirituale. Un cammino verso la pienezza della vita in Cristo*, 263-264.

³⁰ B. GIORDANI, *Il colloquio psicologico nella direzione spirituale*, 69-72.

³¹ Y. RAGUIN, *Maestro e discepolo. La direzione spirituale*, 131.

³² A. LOUF, *Generati dallo Spirito*, 68.

nella mano. Per il discepolo la strada è nuova, ma egli non ha paura perché sa di avere una guida esperta e collaudata»³³.

4.1. Il perfetto compagno di strada

Il direttore spirituale svolge il proprio ruolo accanto al seminarista per aiutarlo a percepire l'azione di Dio dentro di sé. È il seminarista stesso a meditare, contemplare e cercare di percepire l'azione dello spirito buono dentro di sé, mai il direttore spirituale compie questo lavoro al suo posto. Il direttore spirituale, come un vero compagno di strada, aiuta la persona guidata ad essere consapevole delle proprie forze per poterle utilizzare nel modo migliore e così riceve incoraggiamento ad andare avanti. Il compito del direttore spirituale è quello di lasciare la persona guidata in una condizione di grande libertà e non di dipendenza. Il principio è chiaro:

la guida deve aiutare il discepolo ad assumersi le proprie responsabilità e a trovare in se stesso la fonte di energia che gli permetterà di avanzare secondo il desiderio di Dio e animato da lui. La pedagogia del Cristo tende precisamente a risvegliare nei discepoli la presa di coscienza di se stessi. Egli non dice loro tutto quello che devono credere. Parla, spesso in maniera enigmatica, compie miracoli di fronte a loro, vive con loro. Ma non tiene agli apostoli un corso di teologia. Lascia che ascoltino, che vedano, che reagiscano ciascuno a suo modo, perché ciò che gli interessa è che ciascuno preda coscienza della propria posizione nei suoi confronti³⁴.

4.2. Aiutare la personalità del discepolo ad emergere

La direzione spirituale ha il compito di aiutare la persona accompagnata ad acquisire abbastanza fiducia nei propri sforzi e ad essere se stessa. Il desiderio e il compito del direttore spirituale sta nell'osservare come il discepolo, piano piano, inizia a camminare da solo nella vita spirituale, mentre, una tentazione, è quella di pensare che il seminarista accompagnato non riesca ad indirizzarsi sulla strada giusta. In realtà, se il direttore spirituale ha fatto bene il suo lavoro, aiutando la persona ad essere consapevole della strada e del modo nel quale è chiamato a percorrerla, potrà rimanere tranquillo, anche se il discepolo compisse alcuni sbagli. Facendo la propria esperienza «forse pagherà cara questa esperienza commettendo qualche errore, ma sarà sempre meglio che rimanere in uno stato di costante dipendenza da un altro»³⁵.

³³ Y. RAGUIN, *Maestro e discepolo. La direzione spirituale*, 137.

³⁴ Y. RAGUIN, *Maestro e discepolo. La direzione spirituale*, 135-136.

³⁵ Y. RAGUIN, *Maestro e discepolo. La direzione spirituale*, 138.

4.3. Amicizia, non counseling

Parlando della direzione spirituale concluderemo affermando che questa non è una terapia, ma un incontro di amicizia in cui il direttore spirituale e il seminarista si trovano sotto la guida dello Spirito Santo. Il direttore spirituale non è un terapeuta, ma è un cristiano maturo che accompagna il seminarista nella vita spirituale per discernere l'azione di Dio nella propria vita e, proprio per questo, può essere definito come un «amico dell'anima» che accompagna il seminarista nel cammino spirituale. Talvolta la direzione spirituale e il counseling sembrano ad essere la stessa cosa, specialmente quando l'incontro si sviluppa sul livello psicologico. In realtà, sappiamo che non si può ridurre la direzione spirituale solamente a tale livello, ma è necessaria anche una sapienza spirituale capace di fare riferimento alla presenza dello Spirito Santo³⁶.

Conclusioni

In questo articolo abbiamo rilevato che il direttore spirituale, come qualunque guida spirituale, ha quale compito principale quello di discernere, tra tante voci, la voce di Dio. Questo è il motivo per il quale la guida spirituale si mette accanto a una persona, per accompagnarla nell'arte del discernimento, sotto la guida dello Spirito Santo. Nel compiere tale cammino emerge con grande importanza il ruolo del discernimento, infatti non è possibile accompagnare una persona senza fare prima un discernimento degli spiriti³⁷. Solo una volta compiuto un vero discernimento si è in grado di continuare il cammino sulla strada della crescita nella vita spirituale. Abbiamo osservato come un mezzo adeguato per la crescita spirituale è rappresentato dalla direzione spirituale, realtà in cui l'accompagnatore (il direttore spirituale) e la persona accompagnata (nel nostro caso il seminarista) sono sotto la guida dello Spirito Santo che opera in tutti e due attraverso i suoi doni.

Bibliografia

- BENEDETTO XVI, *Discorso alla comunità della Pontificia Facoltà Teologica "Teresianum" di Roma*, Roma 19 maggio 2011.
 Bernard Ch.A., *Aiuto spirituale personale*, Roma 1978.
 CARVAJAL F., *La direzione Spirituale: Come, perché, per chi e da chi*, Milano 2011.
 CONCILIO ECUMENICO VATICANO II, *Decreto sul ministero e la vita dei presbiteri Praebyterorum Ordinis*, Città del Vaticano 1965.

³⁶ H. NOUWEN, *La direzione spirituale*, Brescia 2007, 50-51

³⁷ P. MAGNA, «Accompagnamento: la voce del Signore tra mille», 62.

- , *Decreto sul rinnovamento della vita religiosa Perfectae Caritatis*, Città del Vaticano 1965.
- , *Decreto sull'apostolato dei laici Apostolicam actuositatem*, Città del Vaticano 1965.
- , *Decreto sulla formazione sacerdotale Optatam Totius*, Città del Vaticano 1965.
- , *Costituzione pastorale sulla Chiesa nel mondo contemporaneo Gaudium et spes*, Città del Vaticano 1965.
- CONGREGAZIONE PER IL CLERO, *Direttorio per il ministero e la vita dei presbiteri*, Città del Vaticano 1994.
- CONGREGAZIONE PER L'EDUCAZIONE CATTOLICA, *Formazione spirituale nei seminari*, Città del Vaticano 1980.
- , *La preparazione degli educatori nei seminari. Direttive*, Città del Vaticano 1993.
- , *Orientamenti educativi per la formazione al celibato sacerdotale*, Città del Vaticano 1974.
- , *Orientamenti per l'utilizzo delle competenze psicologiche nell'ammissione e nella formazione dei candidati al sacerdozio*, Roma 2008.
- , *Ratio Fundamentalis institutionis sacerdotalis*, Città del Vaticano 1970.
- COSTA M., *Direzione spirituale e discernimento*, Roma 2009.
- FARICY R.L. – PECORAIO L., *Preghiera contemplativa e direzione spirituale*, Bologna 2010.
- FORLANI D., «Diventare migliori: un pericolo a cui resistere», *Tredimensioni* 7 (2010) 197-206.
- FRANCESCO DI SALES, *Filotea. Introduzione alla vita devota*, Milano 2000¹⁰.
- FRANCESCO, *Discorso alla Plenaria della Congregazione per il Clero*, Roma 3 ottobre 2014.
- FRATTALLONE R., *Direzione spirituale. Un cammino verso la pienezza della vita in Cristo*, Roma 2013.
- GIORDANI B., *Il colloquio psicologico nella direzione spirituale*, Roma 1992.
- , *La psicologia in funzione pastorale: metodologia del colloquio*, Brescia-Roma 1981.
- GIOVANNI PAOLO II, *Codex Juris Canonici*, Città del Vaticano 1983.
- GIOVANNI PAOLO II, *Esortazione apostolica Christifideles Laici*, Città del Vaticano 1988.
- , *Esortazione apostolica Pastores dabo vobis*, Città del Vaticano 1992.
- , *Esortazione apostolica Vita Consecrata*, Città del Vaticano 1996.
- GIULIANO D.G., «Discernimento e vita cristiana», *Rivista di Vita Spirituale* 58 (2004) 621-631.
- GOYA B., *Aiuto fraterno. La pratica della direzione spirituale*, Bologna 2006.
- GOYA B., *Luce e guida nel cammino. Manuale di direzione spirituale*, Bologna 2004.
- LOUF A., *Generati dallo Spirito*, Magnano 1994, 60.
- MAGNA P., «Accompagnamento: la voce del Signore tra mille», *Tredimensioni* 11 (2014) 62-70.

- MANENTI A., *Comprendere e accompagnare la persona umana*, Bologna 2013.
- MERCATALI A., «Padre spirituale», in S. DE FIORES – T. GOFFI, ed., *Nuovo dizionario di spiritualità*, Milano 1999⁷, 1116-1133.
- MONTANARI A., «Un cammino esposto al “rischio” di Dio», in F.G. BRAMBILLA – M. ALETTI, ed., *Accompagnamento spirituale e intervento psicologico: interpretazioni*, Milano 2008, 75-101.
- NOUWEN H., *La direzione spirituale*, Brescia 2007.
- RAGUIN Y., *Maestro e discepolo. La direzione spirituale*, Bologna 1987.
- ROGERS C., *La terapia centrata sul cliente*, Molfetta 2007.
- TERESA DI GESÙ, «Libro della vita», in *Opere*, Roma 1992⁹.
- TERRINONI U., «Lo Spirito Santo nel discernimento spirituale», *Rivista di Vita Spirituale* 54 (2000) 6-13.

***INCURRUNT IN EXCOMMUNICATIONEM:* BRIEF HISTORY OF CANONIC PUNISHMENT OF ABORTION**

*Petru CIOBANU**

Summary: According to the 1983 Code of Canon Right, the person guilty of abortion, followed by the effect, automatically falls into the excommunication *latae sententiae* given to the bishop. This article sets out the penalties for this crime, which the Second Vatican Council called an “abominable crime” (GS 51). The punishments based on the Holy Scripture are reviewed, then those provided by the councils of the first millennium and those proposed by the patristic teaching, and then, to analyze the penitential manuals and Byzantine right, following the presentation of abortion punishments in medieval jurisprudence and pontifical teaching until the codification of canon right. At the end, the text shows the punishments prescribed by the codes of canon right – that of 1917, that of 1983 and that of the Eastern Churches –, ending with an incursion into Orthodox law.

Keywords: abortion, punishment, canon right, excommunication, crime, penance, penitentiary manual, teaching, punishment.

Introduction

St. John Paul II, in the Encyclical *Evangelium vitae*, wrote that although the texts of *Holy Scripture*, which never speak of voluntary abortion and therefore do not contain direct and specific condemnations in this regard, show such a consideration for the human being in the bosom mother, so that I claim as a logical consequence the extension of God’s command to her: “Do not kill”¹,

a text that presents itself as the culmination of the Church’s entire teaching on abortion, which the Second Vatican Council calls “an abominable crime”². And like any crime, abortion must be punished. As life is the gift of God, from the pages of Holy Scripture we find that it must be defended, that murder must be punished. The Church, the heiress and keeper of Revelation, has carried on this concern for life, especially for the life to be born, as the human being in the mother’s womb is defenseless. In

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¹ JOHN PAUL II, Enc. letter. *Evangelium vitae* (March 25, 1995), no. 61: AAS 5 (May 2, 1995) 470.

² THE SECOND VATICAN COUNCIL, *The pastoral constitution about the Church in the contemporary world „Gaudium et spes”*, n0. 51: AAS 15 (December 7, 1966) 1072.

this care, over the centuries, the Church has not limited itself to proclaiming – by word and letter – the value of life, but, on the basis of her power to “bind” and “release”, punished those who had threatened the life of the unborn child by abortion. We will follow farther, starting with the biblical pages, what these punishments were.

1. In Holy Scripture

The punishment foreseen for abortion is presented in the *Book of Exodus*:

And should men quarrel and hit a pregnant woman, and she miscarries but there is no fatality, he shall surely be punished, when the woman's husband makes demands of him, and he shall give restitution according to the judges' orders. But if there is a fatality, you shall give a life for a life, an eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot, a burn for a burn, a wound for a wound, a bruise for a bruise (21,22-25).

However, the passage in question is not without difficulties of interpretation, taking into account the differences between the Masoretic text and the translation of the *Septuagint*. Thus, the latter has the following translation:

And if two men strive and smite a woman with child, and her child be born imperfectly formed, he shall be forced to pay a penalty: as the woman's husband may lay upon him, he shall pay with a valuation. But if it be perfectly formed, he shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe.

The text is part of the *Family Right Rules of the Alliance Code*, being included in the *Criminal Law*, in the category of *crimes against persons*³. We can deduce from this that the inclusion of abortion in this section means that this is a sin that must be punished.

The text in *Ex 22: 22-25* speaks of two possibilities that arise from whether or not the fetus is still formed. If the woman, as a result of the hit, aborts, for this damage a fine is provided by the husband of the hit woman and established by a judge. If the woman suffers other damages in her own person, this fact will be taken into account for an adequate compensation of the victim: a temporary damage will demand a compensation of a certain type, but lower if the woman dies or, as the text states. : “a misfortune happens” (v. 23a). In this last case we speak of “life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise” (vv. 23b-25)⁴.

³ Cf. *Biblia*, tr. A. Bulai – E. Patraşcu, 176-177.

⁴ Cf. P. BOVATI, „Pena e perdono nelle procedure giuridiche dell'Antico Testamento”, in A. ACERBI – L. EUSEBI, *Colpa e pena? La teologia di fronte alla questione criminale*, Vita e Pensiero, Milano 1998, 41.

Therefore, a person who causes the death of the fetus is liable to capital punishment since the fetus is also in the image of God. This is the great difference between the Masoretic text and the Greek translation: in the first case, the criterion is the harm of the woman, in the second – of the fetus⁵, who, being formed, is already considered a human being and the abortion procured is considered to be homicide⁶.

That text includes abortion in another criminal case, that of litigation, if it results in abortion as a consequence, and indicates two possibilities: the hit is the cause of the abortion, and the culprit must be punished only with a fine, or the abortion is the cause of the hit, the punishment being a capital one⁷. The fetus, in the present text, has a monetary value, which must be determined based on a special calculation. If the wound caused to the woman is a reason for “misfortune”, it is no longer valued in money⁸. The text, being a normative one, stipulates that the one who is guilty of the abortion of an already formed fetus commits a homicide and must bear the punishment of the *law of retaliation*⁹, already present in the *Code of Hammurabi* and in Assyrian laws, being of a social and not individual nature and imposing a punishment equal to the damage caused¹⁰, so that, although the law seems cruel, it attenuates the revenge of the blood, which is satisfied with something less than the loss of life¹¹.

It is good, at this point, to draw a parallel with the *Code of Hammurabi* and the Assyrian legislation, to which the *Alliance Code* is tributary. Thus, articles 209-214 of the *Code of Hammurabi* foresaw an economic sanction for abortion that varied depending on the social condition of the woman. If it was the daughter of an *awelum*, that is a free man, in the case of abortion, the one who provoked it had to pay ten silver shekels (art. 209); if she was the daughter of a *musken* – “a man of the small world” – the fine was five shekels (art. 211); if she was a slave, the perpetrator had to pay only two shekels. If, after the abortion, the woman died, if she was the daughter of a free man, the punishment was the death of the daughter of the one

⁵ Cf. *Septuaginta*, 245.

⁶ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato nel „Codex Iuris Canonici” del 1917 e del 1983*, PUL, Roma 2001, 20.

⁷ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato nel „Codex Iuris Canonici” del 1917 e del 1983*, 20.

⁸ Cf. R.E. BROWN – J.A. FITZMYER – R.E. MURPHY, *Introducere și comentariu la Sfânta Scriptură*, II, *Pentateuhul*, tr. D. Groșan, Galaxia Gutenberg, Târgu-Lăpuș 2007, 244.

⁹ Cf. M. PALMARIO, *Ma questo è un uomo. Indagine storica, politica, etica, giuridica sul concepito*, San Paolo, Cinisello Balsamo (Milano) 1996, 23.

¹⁰ Cf. *Biblia*, tr. A. Bulai – E. Patrașcu, 177, note c.

¹¹ Cf. R.E. BROWN – J.A. FITZMYER – R.E. MURPHY, *Introducere și comentariu la Sfânta Scriptură*, 244.

who caused the abortion (art. 210); in the case of a musken's daughter, a fine of half of a silver mine was paid (art. 212), and for a slave a third of a silver mine was paid (art. 214)¹². Assyrian legislation from the sec. XVII-XVI BC also punished abortion, but only in the case of an aristocrat's daughter, when the abortion was caused by another. In this case, the culprit had to pay a huge fine, was beaten with 50 lash hits and was to work for a month in favor of the king. Paragraph 50 of the same Assyrian law foresaw even the death penalty of the perpetrator's wife, or even of himself, if the woman who had the abortion died¹³.

2. Teaching of the conciliar and holy fathers of the Church

Putting man's life above sin committed according to the Savior's teaching: "He that is without sin among you, let him first cast a stone at her" (*In* 8,7), the first millennium councils provided for sanctions or penalties for abortion in the decisions they had taken. Thus, the Council of Elvira (the name of Granada before the Arab conquest in Spain), in 305, in canon 63, provided that a woman who had an abortion could not be given communion even at the end of her life, and canon 68 said that a catechumen who committed the same deed to be baptized only at the end of life¹⁴. It is the first mention of the punishment with the excommunication foreseen for such a crime¹⁵, and the denial of release even on the deathbed comes to indicate the gravity of the deed committed.

Unlike the Council of Elvira, the Council of Ancyra (now Ankara, Turkey), in 314, established a lighter sentence for abortion: instead of a lifetime of penance, only ten years were foreseen¹⁶. We are here in front of a peculiar adjudgment, abortion being assimilated to infanticide, the punishment being only ten years of excommunication, divided into different degrees of public penance¹⁷.

¹² V. HANGA, *Mari legiuitori ai lumii*, Editura Științifică și Enciclopedică, București 1977, 78.

¹³ Cf. C. WAU, „Aborto”, *Enciclopedia de la Biblia*; Italian trans., *Enciclopedia della Bibbia*, I, Elle di Ci, Torino-Leumann 1969, 54.

¹⁴ CONCIL OF ELVIRA, can. 63, 68: Mansi, II, 16-17: „Si qua mulier per adulterium, absente marito, conceperit, idque post facinus occiderit, placuit ei nec in finem dandum communionem, eo quod geminauerit scelus”.

¹⁵ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 29.

¹⁶ CONCIL OF ANCYRA, can. 21: Mansi, II, 519: „Περὶ τῶν γυναικῶν τῶν ἐκπορνεουσῶν καὶ ἀναιρουσῶν τὰ γεννώμενα καὶ σπουδαζουσῶν φθόρια ποιεῖν, ὁ μὲν πρότερος ὅρος μέχρις ἐξόδου ἐκώλυσε, φιλανθρωπότερον δέ τι εὐρόντες ὥρισamen δεκαετὴ χρόνον πληρῶσαι κατὰ τοὺς βαθμοὺς τοὺς ὥρισμένους”.

¹⁷ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 30.

The Council of Tours in 461, without indicating what punishment should be imposed on the murderer, speaks only of the penance to be performed, being forbidden any connection with the perpetrator¹⁸, it is clear that this is excommunication. Canon 1 of the Council of Vannes in 465 provided for excommunication for those who committed the same crime of homicide: "Therefore, we decide that the murderers and false witnesses should be removed from church communion, unless they have been cleansed by serving penance for vile crimes"¹⁹. This decision was confirmed by the Council of Agde, in Languedoc, in 506, which, in canon 37, quotes verbatim canon 1 of the previous council²⁰. The Council of Lerida in 524 foresaw excommunication for abortion, but the punishment provided by the Council of Ancyra was reduced, with seven years of penance prescribed for those who cause the loss, in any case, of children conceived or born of adultery and forbidding to be baptized during this period. He adds that after the expiration of seven years, they will continue to do penance for the rest of their lives. Besides this, for the first time, the clergy were taken into account, who, after their re-entry into communion, could not resume their service, having only the right to attend in choir with singers, and those who administered abortions, for them being foreseen admission to Holy Communion only at the end of life and this only after they "continually wept" their sin from the moment of its commission²¹.

Canon 91 of the Third Council of Constantinople in 692, also known as the Trullan Synod, qualified abortion and fetal destruction to avoid birth as homicide, women giving "fetus-rejecting doctors" and women "receiving losing baby poisons" were subject to the murderer's punishment²². The punishment for this crime was set by canon 21 of the Council of Ancyra, which

¹⁸ Cf. P. GUÉRIN, *Les Conciles généraux et particuliers*, I, Paris 1868³, 363.

¹⁹ Cf. COUNCIL OF VANNES, can. 1: Mansi VII, 953; P. GUÉRIN, *Les Conciles généraux et particuliers*, 364; C.L. RICHARD, *Analysis Conciliorum generalium et particularium, continenseorun canones super dogmate, morali doctrina ac disciplina tam veteri quam recentiori, erudissimis adnotationibus illustratos*, I, Augsburg 1778, 463: „Itaque, censuimus homicidas et falsos testes a communione ecclesiastica submovendos, nisi poenitentiae satisfactione crimina admissa diluerint”.

²⁰ Cf. COUNCIL OF AGDE, can. 37: Mansi, VIII, 331.

²¹ COUNCIL OF LERIDA, can. 2: Mansi, VIII, 612: „Hi vero qui male conceptos ex adulterio foetus, vel editos necare studuerint, vel in uteris matrum potionibus aliquibus colliserint, in utroque sexu adulteris, post septem annorum curricula communio tribuatur, ita tamen ut omni tempore vitae suae fletibus, et humilitati insistant. Si vero clerici fuerint, officium eis ministrandi recuperare non liceat, attamen in choro psallentium a tempore receprae communions intersint. Ipsius autem veneficis in exitu tantum (si facinora sua omni tempore vitae suae deflexerint) communio tribuatur”.

²² Cf. THIRD SYNOD OF CONSTANTINOPOL, can. 91, in I.N. FLOCA, *Canoanele Bisericii Ortodoxe. Note și comentarii*, Sibiu, 2005³, 106-179, here 172.

foresaw that, “in regard to voluntary manslaughter, the guilty should humble themselves for the rest of their lives, and for the perfect to be humbled only at the end of their lives”²³, and this is about excommunication as well.

The Council of Mainz in 847 refers to the previous legislation on abortion, quoting canon 21 of the Council of Ancyra and referring to the Council of Elvira. Canon 21 of this council declares: “Regarding women who have committed fornication and killed their fetus, or who do so with them so as to kill what they have conceived in the womb, the ancient decision is to exclude them from the Church until the end of their lives; but we, meeker, establish that they should be given the proper penance for ten years”²⁴.

The Council of Worms, held in 868, confirming that abortion is a homicide, in canon 35 considers two cases: procured abortion (*ipsi are abortus causa*) and the suffocation of the infant during sleep (*dormientes, nihili que tale cogitantes, infantes spiritum intercludunt*), each of these two being judged differently²⁵. Regarding abortion, the text of the canon says clearly: “Therefore, women who, before the time of [birth], willingly kill children born in the womb, will no doubt be considered murderers”²⁶.

Important for our subject was the teaching of St. Basil the Great (329-379), in *Letter 188* which contains the answer he gives to the doubts of Bishop Amphilochius of Antioch, being the first of the Church Fathers to talk about some punishments in case of crimes. First, Vasile rejects any distinction between the formed fetus and the unformed fetus, considering this difference as a subtlety of pagan philosophers, condemning abortion²⁷. Then, it includes abortion in the category of homicide, for which it also proposes some punishments. Saint Basil the Great writes: “The one who kills the fetus is guilty of murder... It is added that killing the fetus is also considered homicide, even with the intention of those who had this audacity”²⁸. The punishment imposed by the Cappadocian father for abortion sounds like this: “Their release must not be postponed until the hour of

²³ THE CANONS OF THE FIRST LOCAL SYNOD OF ANCIRA (314), can. 22, in I.N. FLOCA, *Canoa-nele Bisericii Ortodoxe. Note și comentarii*, Sibiu, 201-213, here 212.

²⁴ COUNCIL OF MAINZ, can. 21: Mansi, XIV, 909: „De mulieribus quae fornicantur, et par-tus suos necant, vel quae agunt secum, ut utero conceptus excutiant, antiqua quidem defi-nitio usque ad exitum vitae eas ab ecclesia removet, humanius autem nunc definimus, ut eis decem annorum tempus secundum praefixos gradus poenitentiae largiatur”.

²⁵ Cf. C.L. RICHARD, *Analysis Conciliorum generalium et particularium*, 852-853.

²⁶ CONCIL OF WORMS, can. 35: Mansi, XV, 115-116: „Mulieres igitur quae ante temporis plenitudinem conceptos utero infantes voluntate excutiant, ut homicidae procul dubbio iudicandae sunt”.

²⁷ Cf. B. HONINGS, “Aborto”, A. DI BERARDINO, *Dizionario patristico e di antichità cristiane*, I, Marietti, Torino 1983, 12.

²⁸ Cf. BASIL THE GREAT, *Epistolae* 188: PG 32, 671.

death, but they must be admitted to penance for ten years and to judge their healing not by time, but by their disposition.”²⁹, in his conception being important not the time, but the mode of penance. The same category of killers includes the woman who proposes substances that kill the fetus³⁰, therefore the punishment being the same. It should be mentioned that Basil distinguishes between voluntary murder and involuntary manslaughter, abortion falling into the first category³¹.

3. In penitential manuals

Although exalted throughout the Middle Ages, motherhood is not only a condition and concern, but can also be a stressful concern and an economic burden. Therefore, we should not be surprised that all penitentiary manuals talk about contraception, abortion and infanticide with a frequency and insistence that even extremely severe punishments failed to eliminate³². These crimes are punished by a large number of provisions in the penitentiary manuals, and this is due to the fact that birth as well as death are and must be the exclusive choice of God, man being forbidden any assertion of his own will in this field³³.

Penitentiary manuals are not doctrinal manuals, having a practical function, their purpose being to regulate the behavior of those who, often recently Christianized, appear to be insecure or confused about sins and to recognize, in their own actions, the specific attributes of guilt³⁴. In these penitential manuals the gravity of the homicide is confirmed, in its various manifestations and purposes, even if it does not manifest itself in them, maybe it was not even the place, an explicit theorizing of the absolute value of life and the need to defend it. Some homicides were considered more serious and, in particular, more infamous, being judged as unacceptable by society, which is why they removed those who were guilty of them³⁵. Crimes against human life, including abortion, are placed in penitentiary manuals among homicides, among sins against the sixth commandment or those

²⁹ Cf. BASIL THE GREAT, *Epistolae* 188: PG 32, 671.

³⁰ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 31.

³¹ Cf. BASIL THE GREAT, *Epistolae* 188: PG 32, 675-678.

³² Cf. R. MANSELLI, „Vie familiale et éthique sexuelle dans les pénitentiels”, *Famille et parenté dans l'Occident médiéval. Actes du colloque de Paris (6-8 juin 1974)*, École Française de Rome, Rome 1977, 368.

³³ Cf. M.G. MUZZARELLI, „Il valore della vita nell'alto medioevo: la testimonianza dei libri penitenziali”, in *Aevum* 2 (1988) 184.

³⁴ Cf. M.G. MUZZARELLI, „Il valore della vita nell'alto medioevo: la testimonianza dei libri penitenziali”, 171.

³⁵ Cf. M.G. MUZZARELLI, „Il valore della vita nell'alto medioevo: la testimonianza dei libri penitenziali”, 173.

relating to matrimonial law, and among the crimes of poisoning³⁶. This last term is found in penitentiary manuals in the form of *maleficium* or *veneficium* and can mean a contraceptive or abortive drink or one with the most frequent lethal effects³⁷.

In the category of homicide, some penitentiary manuals also include contraception, which is not always differentiated from abortion³⁸. Thus proceeds *Poenitentiale Valicelliana II*, which provides for this crime the same penance as for murder³⁹, resuming a text from *Poenitentiale Valicelliana I* (can. 83)⁴⁰. In the XIth century, this indication would find its most complete expression in the *Corrector Burchardi*, which already refers not only to contraception, but also to the direct killing of the fetus in the mother's womb, as we will see below. These prescriptions allow us to understand how the ancient norms were, from one period to another, resumed, reworked and even modified⁴¹.

However, abortion is clearly distinguished from contraceptive practices, once it is sanctioned by more or less onerous punishments, according to the circumstances and reasons that make it inevitable. Thus, as we will see by analyzing some of the penitentiaries, a distinction is made if the abortion is performed before or after forty days of conception, the woman being classified as a *homicide* only in the second case, since then the fetus *anima habet*, as expressed by *Poenitentiale Theodori*. However, other penitentiaries do not allow for any mitigating circumstances and foresee a single and unique punishment for women who voluntarily have an abortion, regardless of the time of pregnancy⁴².

Poenitentiale Vinniani establishes penance for the woman who made a poison (*maleficio*), after which another woman lost the child, this consisting of half a year of fasting with bread and water, another two years of abstinence from meat and wine and six Lents the same only with bread and water⁴³.

³⁶ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 35.

³⁷ Cf. M.G. MUZZARELLI, „Il valore della vita nell'alto medioevo: la testimonianza dei libri penitenziali”, 179.

³⁸ Cf. F. PETRUCELLI, „I libri penitenziali. Uno studio di psicologia storica”, in *Quale psicologia* 36 (2010) 25.

³⁹ Cf. „*Poenitentiale Valicelliana II*”, 57, in H.J. SCHMITZ, *Die Bussbücher und die Bussdiscipline der Kirche*, Mainz 1883, 379: „Si quae mulier herbas ne concipiat biberit, quantoscumque concipere vel parere debuerat, tantorum homicidiorum rea erit et ita iudicetur” (chap. 57).

⁴⁰ „Maxime si mulieris partum per hoc quis deciperit, V XL mas unusquisque agat in pane et aqua, ne homicidii reus sit” („*Poenitentiale Valicelliana I*”, 40, in H.J. SCHMITZ, *Die Bussbücher und die Bussdiscipline der Kirche*, 285).

⁴¹ Cf. R. MANSELLI, „Vie familiale et éthique sexuelle dans les pénitentiels”, 368.

⁴² Cf. R. MANSELLI, „Vie familiale et éthique sexuelle dans les pénitentiels”, 368 and note 21.

⁴³ Cf. „*Poenitentiale Vinniani*”, 20, in W.H. WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, Halle 1851, 112: „Si aliqua mulier maleficio suo partum alicujus

Saint Columban's penitential manual, distinguishing between a deadly poison and a love poison, also distinguishes between penances, if as a result the woman lost the child. In the first case, penance consists of three years of fasting with bread and wine, then another three years of abstinence from meat and wine. In the second case, differentiating between the perpetrators: layman, simple monk, deacon, priest, establishes a penance of one year of fasting with bread and water for the monk, half a year of fasting with bread and water for the layman, two for the deacon and three for the priest⁴⁴. In the same sense, we mention *Poenitentieale Hubertense*, which foresaw for the poison after which someone was killed a penance of seven years and many alms⁴⁵, as *Poenitentieale Bobiense* had foreseen, adding that three of these were to be with bread⁴⁶.

Poenitentieale or *Corrector Burchardi*, in Chapter CXLVII, foresaw that women who consented, counseled, or induced abortion by herbs or other means, "to do penance for three years on legitimate holidays". At the same time, saying that every time someone has killed a fetus so many times they are guilty of murder, it differentiates between the woman who had an abortion because she was poor and the one who resorted to crime to hide her crime of adultery⁴⁷. *Poenitentieale Vigilandum* prescribed 12 years of penance for those who say children should not be born⁴⁸.

femine deciperit (perdiderit), dimidium annum peniteat cum pane et aqua per mensuram et II annos abstineat se a vino et a carnibus et VI quadragesimas jejundet cum pane et aqua".

⁴⁴ Cf. „*Poenitentieale Columbani*”, VI (XVIII), in W.H WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, Halle 1851, 356: „Si quis maleficio suo aliquem perdiderit, tribus annis poeniteat cum pane et aqua per mensuram, et tribus aliis annis abstineat se a vino et carnibus, et tunc demum in septimo anno recipiatur in communionem. Si autem pro amore quis maleficus si et neminem perdiderit, annum integrum cum pane et aqua clericus ille poeniteat, laicus dimidium, diaconus duos, sacerdos tres maxime si per hoc mulieris partum quisquam deceperit, ideo se quadragesimas unusquisque insuper augeat, ne homicidii reus sit”.

⁴⁵ Cf. „*Poenitentieale Hubertense*”, X, in W.H WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, Halle 1851, 378: „Si quis maleficio suo aliquem perdiderit, VII annis poenitet et eleemosynas multas faciat”.

⁴⁶ Cf. „*Poenitentieale Bobiense*”, IX, in W.H WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, Halle 1851, 408: „Si quis maleficio suo aliquid perdiderit, decem annos poeniteat, tres in pane”.

⁴⁷ Cf. „*Corrector Burchardi*”, CXLVII, in W.H WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, Halle 1851, 659: „Fecisti, quod quaedam mulieres facere solent, quae dum fornicantur et partus suos necare volunt, agunt, ut utero conceptos excutiant suis maleficiis et suis herbis, ita ut aut conceptum interficiant, aut excutiant, vel si nondum conceperunt, faciunt, ut non concipiant? Si fecisti aut consensisti aut doeuiisti, III ann. per legitimas ferias penit. debes. Sed antiqua definitio, usque ad exitum vite tales ab ecclesia removet, nam quotiens conceptum impediatur, tot homicidiorum rea erat. Sed distat multum, utrum paupercula sit, et pro difficultate nutriendi vel fornicaria causa, et pro sui sceleris celandi fiat”.

⁴⁸ Cf. „*Poenitentieale Vigilandum*”, LXXX, in W.H WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, Halle 1851, 533: „Qui pro filiis non habendum, XII ann. penit.”.

A special attention in the history of the attacks on life is the one represented by the numerous norms that refer to the woman who decided to get rid of an unwanted pregnancy. Thus, *Poenitentiale Theodori*, without indicating the age of the child, writes that the woman who kills him must be subjected to a penance of 15 years, and, if she is *paupercula* – poor –, the penance be reduced to seven years⁴⁹. We can assume that the manual refers here to children already born, since, true to the conception of the animated and inanimate fetus, it foresees that “the woman who conceived and killed her child within 40 days [from conception], to do penance for a year; if indeed after 40 days, to do penance as a murderer”⁵⁰, for which, as we saw in the previous case, there was a penance of either 15 or 10 years.

Poenitentiale Marseburgense foresaw that a mother who kills her child, the age of which is not specified in the manual, will have to undergo a 15-year penance, which can be reduced to 7 years only if the woman is poor.⁵¹ We are dealing here with a mitigating circumstance related to the economic situation of the woman, which does not allow her to raise more children. And this manual is tributary to the conception of the animated and inanimate fetus, since, in canon 144, it makes the same difference as *Poenitentiale Theodori*⁵². *Poenitentiale Hubertense* foresaw a ten-year penance for procured abortion⁵³.

Another manual that provides penalties for infanticide is *Poenitentiale XXXV Capitulum*, which also foresaw 15 years for killing a child, and in the case of a poor woman the punishment was 6 years⁵⁴. Referring strictly to abortion, the same manual foresees for a period of one year of penance for killing the fetus before 40 days; in the case of abortion after 40 days, penance was foreseen for murderers⁵⁵.

⁴⁹ Cf. „*Poenitentiale Theodori*”, XIV, 25, in W.H. WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, Halle 1851, 200: „Mater si occiderit filium suum, si homicidium facit, XV annos poeniteat et nunquam mutet nisi in die dominico”; „Mulier paupercula, si occiderit filium suum, VII annos poeniteat”.

⁵⁰ Cf. „*Poenitentiale Theodori*”, XIV, 25, 200: „Mulier quae concepit et occidit infantem suum in utero ante XL dies, I annum poeniteat, si vero post XL dies, ut homicida poeniteat”.

⁵¹ Cf. „*Poenitentiale Merseburgense*”, CLXII și CLXIII, in W.H. WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, 407: „Si quae mater filium suum occiderit, XV annos poen., et nunquam mutet, nisi die dominica”; „Mulier pauperina VII ann. poen.”.

⁵² Cf. „*Poenitentiale Merseburgense*”, CLXIV, 407: „Mulier si occiderit filium in utero ante XL dies, ann. I poen., si post XL dies conceptionis, ut homicida III ann. poen.”.

⁵³ Cf. „*Poenitentiale Hubertense*”, XXXVII, 382: „Si quae mulier abortum fecerit voluntarie, X annis poeniteat”.

⁵⁴ Cf. „*Poenitentiale XXXV Capitulum*”, I, 2, in W.H. WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, 506: „Si mater filium suum occiderit, XV ann. poenit., et nunquam mutet nisi die dominica. Si paupercula occidit filium suum, in canone dicitur VI annis poenitentia ejus”.

⁵⁵ Cf. „*Poenitentiale XXXV Capitulum*”, III, 2, 507: „Mulier, quae concepit et occidit filium suum in utero ante XL dies, I ann. poenit. Si post XL dies, ut homicida debet poenit.”.

Poenitentiale Pseudo-Gregorii III refers first to the discipline of the older canons, namely that the woman who kills her conceived child should be received into communion only at the end of life. But out of mercy, this manual prescribes that if the woman consciously does so, she should do penance for ten years, and in the case of a poor woman, the penance should be for seven years. Killing the fetus before 40 days of conception was punishable by penance for murderers⁵⁶.

Poenitentiale Cummeani, in Chapter III *De adulteris, raptu, et incestu*, resuming the penance provided by the Council of Ancyra, prescribes for women who have killed their child born or only the one conceived in the womb a penance of ten years⁵⁷. In Chapter VI *De homicidio et sanguinis effusione, for infanticide*, penance was the same as in the manuals discussed above, namely 15 or 7 years in the case of a poor woman⁵⁸. There is also a difference, in the same chapter, between killing the fetus before and after 40 days of conception: in the first case the penance was one year, in the second, three⁵⁹. Also, here we talk about voluntary abortion, a case for which penance was three years with bread and water⁶⁰. In Chapter VII of *De maleficis et veneficis*, which included abortion in the category of homicide, it provided that if, by poisoning, someone was killed, the murderer should be sentenced to seven years' imprisonment, three of which were with bread and water⁶¹. If, as a result of the poison, the woman lost her fetus, each, and the one who gave her the poison, and the woman, had to do penance for three years with bread and water⁶².

⁵⁶ Cf. „*Poenitentiale Pseudo-Gregorii III*”, XVII, in W.H WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, 542: „Si qua mulier fornicaverit et infantem occiderit, qui exinde fuerit natus, et quae studuerit abortum facere et, quod conceptum est, necare, aut certe, ut non concipiat, elaborare, sive ex adulterio, sive ex legitimo conjugio, has tales mulieres in morte recipere communionem, priores canones decreverunt, nos tamen pro misericordia, sive tales mulieres sive conscias scelerum ipsarum, decem annos agere poenitentiam judicamus. Si mulier paupercula occiderit filium suum, in canone septem annos dicit poenitentiam ejus. Mulier, quae concipit et occidit filium aut filiam in utero ante quadraginta dies, homicida poeniteat”.

⁵⁷ Cf. „*Poenitentiale Cummeani*”, III, 23, in W.H WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, 473-474: „Mulieres vero, quae fornicantur et partus suos necant, sed et eis, quae agunt secum, utero conceptos discutiant, X annos poeniteant”.

⁵⁸ Cf. „*Poenitentiale Cummeani*”, VI, 9-10, 479: „Si mater filium suum hocciderit, XV annos penit. et nunquam mutet nisi die dominico”; „Mulier pauperina VII annos penit.”.

⁵⁹ Cf. „*Poenitentiale Cummeani*”, VI, 11, 479: „Mulier si occiderit filium suum in utero ante XL dies, annum I penit., si vero XL dies post conceptionem, ut homicida peniteat III annos”.

⁶⁰ Cf. „*Poenitentiale Cummeani*”, VI, 21, 479: „Si mulier abortum fecerit voluntarie, III annos in pane et aqua peniteat”.

⁶¹ Cf. „*Poenitentiale Cummeani*”, VII, 1, 480: „Si quis maleficio suo aliquem perdiderit, VII annos peniteat, III ex his in pane et aqua”.

⁶² Cf. „*Poenitentiale Cummeani*”, VII, 2, 480: „...si per hoc [veneficus] mulieris partum quisquam deceperit, III annos unusquisque superaugeat in pane et aqua”.

Saint Bede the Venerable, in his penitential manual, prescribes for abortion before 40 days a penance of one year, for those after 40 days, a penitentiary period of three years, but with the difference if the deed is committed by a poor woman or of one who wants to hide her crime⁶³. *Poenitentie Parisiense* foresaw a three-year penance with bread and water for voluntary abortion⁶⁴, as well as *Poenitentie Vindobonense*⁶⁵. *Poenitentie Bobiense* prescribed for the woman who killed her fetus a penance of 240 days only with bread⁶⁶.

The case is being complicated, and penance becomes even more severe if abortion is used to hide the consequences of adultery, penitential manuals, following the teachings of the Council of Ancyra, prescribing a penance for life, with the possibility, out of mercy, to be reduced to ten years⁶⁷. Thus, *Poenitentie XXXV Capitulum*, in chapter III foresaw that "women who indulged in fornication and killed their child, as well as those who, acting, take out of the womb what they gave birth to, the ancient parents established until at the end of life [to do penance]. But now a more humane ten-year penance is established"⁶⁸. *Poenitentie Cummeani* foresaw a similar period of penance for the same category of women and for the same deed⁶⁹.

It is noteworthy that these penitentials, unlike the Germanic and Celtic moral traditions, which considered only the act itself, disregarding the reasons that determined it, punished sins considering their psychological reasons. If we refer to the case of abortion and infanticide, the woman who kills her baby to hide the sin of fornication is punished more severely than the one who killed him because of poverty⁷⁰. In addition to the provisions

⁶³ Cf. „Poenitentie Bedae”, IV, 12, in W.H WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, 225: „Mulier qui occidit filium suum in utero ante dies XL, I annum peniteat. Si vero post dies XL, III annos. Sed distat multum, utrum paupercula pro difficultate nutriendi an fornicaria causa sui sceleris celandi faciat”.

⁶⁴ Cf. „Poenitentie Parisiense”, XXVII, in W.H WASSERSCHLEBEN, ed., *Die Bussordnungen der abendländischen Kirche*, 415: „Si qua mulier aborsum fecerit voluntarie, III ann. poen. c[um] p[ane] e[t] a[qua]”.

⁶⁵ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 37.

⁶⁶ Cf. „Poenitentie Bobiense”, XI, 408: „Si quis mulieri partum deceperit, sex quadragenas agat in pane”.

⁶⁷ Cf. M.G. MUZZARELLI, „Il valore della vita nell'alto medioevo: la testimonianza dei libri penitenziali”, 178.

⁶⁸ „Poenitentie XXXV Capitulum”, III, 1, 507: „Mulieres, que fornicantur et partus suos necant, et ille, quae agunt utero conceptos excutiant, antiqui patres constituerunt, usque ad exitum vitae. Nunc vero humanius diffinitum est X ann. paenit.”.

⁶⁹ Cf. „Poenitentie Cummeani”, VI, 3: „Mulieres, que fornicantur et partus suos necant et eas, quae agunt ut uteros conceptos excutiant, antiqui patres instituerunt usque ad exitum vitae; nunc humanius definitum est, X annos poeniteant”.

⁷⁰ Cf. Manselli, „Vie familiale et éthique sexuelle dans les pénitentiels”, 369.

already mentioned, we also mention *Poenitentiale Arundel*, which takes into account two situations when interrupting motherhood: when it is done to hide fornication (*ad occultandam libidinem*) and when abortion is used "to avoid the death or distress of the child" (*ad vitandam mortem vel partus angustiam*). The circumstances were different, respectively the punishments were different: in the first case a penance of ten years was foreseen, in the second, of three⁷¹.

The same thing is available for *Poenitentiale Valicelliana II* as well. According to this manual, "the woman who willingly killed her child, 15 years [of penance to do, of which] seven with bread and water", being allowed to eat any other food only on Sundays. In the case of a woman who had an abortion due to poverty, the same manual prescribed seven years of penance⁷².

This understanding of penitential manuals on the condition of women's poverty is linked to the memory of the canons of the first Christian centuries and of St. Basil⁷³. *Poenitentiale Valicelliana I* clearly indicate that if a woman has killed her fetus because she will not be able to support or feed it, she is not guilty, but she should still be sentenced to three weeks' imprisonment⁷⁴.

4. In Byzantine civil and church legislation

After analyzing the penalties foreseen for abortion in penitentiary textbooks in Western Europe, we will move on to the presentation of the same subject in Byzantine legislation, both civil and ecclesiastical, given the close link between royal and ecclesiastical power, the emperor being in fact the head of the Byzantine Church.

In Byzantine law, codified in the *Civil Code* of Justinian and based on Roman law, abortion is included in the legislation on divorce (the case of the repudiated woman who, out of revenge, deprives her husband of offspring) and inheritance (the case of the woman accepting money from the indirect heirs of the deceased spouse to suppress a direct heir⁷⁵), as well as

⁷¹ Cf. „*Poenitentiale Arundel*”, 18, in H.J. SCHMITZ, *Die Bussbücher und die Bussdiscipline der Kirche*, 432-465, here 443: „Mulier si aliquo maleficio ad occultandam libidinem suam obtinet, se numquam concipere possit, eodem modo X annos poeniteat. Quae vero ad vitandam mortem vel partus angustiam hoc faciunt, triennio poeniteant”.

⁷² Cf. „*Poenitentiale Valicelliana II*”, 14, in H.J. SCHMITZ, *Die Bussbücher und die Bussdiscipline der Kirche*, 356.

⁷³ Cf. R. MANSELLI, „Vie familiale et éthique sexuelle dans les pénitentiels”, 369.

⁷⁴ „*Poenitentiale Valicelliana I*”, 40, in H.J. SCHMITZ, *Die Bussbücher und die Bussdiscipline der Kirche*, 285: „Si qua mulier ab hoste rapta infantem suum invitum proicit sive quae non potest stare aut nutrire, non est culpanda, sed tamen III ebdomadas peniteat”.

⁷⁵ „Cicero in oratione pro cluentio habito scripsit milesiam quandam mulierem, cum esset in asia, quod ab heredibus secundis accepta pecunia partum sibi medicamentis ipsa

in animate goods, such as slaves (the case of a slave who must be released once she has given birth to three slaves; if the master administers abortive substances to prevent her from giving birth, she must be released immediately⁷⁶). In all these cases, it is not the suppression of the embryo, nor the use of abortifacients, but the purpose pursued⁷⁷.

It is worthy to remark that abortion in civil law of the entire Byzantine period, in accordance with Justinian's law, but in opposition to canon law, will be considered as guilt against the husband and not as murder. We also note that these texts speak only of the woman: that who aborts and that who administers abortive substances⁷⁸. Being related to debauchery, the Byzantine legislation after the sixth century foresaw for abortion the punishment from the *Code of Justinian*, namely exile, to which was added a corporal punishment. In the IXth century, the same punishment is preserved in *Basilicorum libri*⁷⁹, but it is omitted to talk about abortion in the title about murders, including it in the chapter of crimes committed out of hatred towards the husband. Emperor Leo VI restores an older disposition of Justinian, abolished in 542, and gives the husband the right to divorce if his wife has an abortion, justifying his decision by the fact that the cohabitation of the two is impossible because of hate. An important aspect of this royal decision is that a woman who has had an abortion threatens a life that belongs to her husband⁸⁰. This provision of the civil norm was received by the ecclesiastical legislation among its norms, acquiring a legislative value⁸¹.

abegisset, rei capitalis esse damnatam. Sed et si qua visceribus suis post divortium, quod praegnas fuit, vim intulerit, ne iam inimico marito filium procrearet, ut temporali exilio coerceatur, ab optimis imperatoribus nostris rescriptum est" (*Digesta* 48, 19, 39).

⁷⁶ „Item Iulianus libro sexto decimo digestorum scripsit, si Arethusae libertas ita sit data, si tres servos pepererit, et per heredem steterit, quo minus pepererit (puta quod ei medicamentum dedisset, ne conciperet), statim liberam futuram esse: quid enim exspectamus? Idemque et si egisset heres, ut abortum faceret, quia et uno utero potuit tres edere" (*Digesta* 40, 7, 3, 16).

⁷⁷ M.-H. CONGOURDEAU, „Les abortifs dans les sources byzantines", *Le corps à l'épreuve. Poisons, remèdes et chirurgie: aspects des pratiques médicales dans l'Antiquité et le Moyen Âge*, Reims 1999, 57.

⁷⁸ Cf. M.-H. CONGOURDEAU, „Un procès d'avortement à Constantinople au 14^e siècle", in *Revue des études byzantines* 40 (1982) 110.

⁷⁹ Cf. *Basilicorum libri LX*, 60, 22, 4, ed. G.E. HEIMBACH, vol. V, Leipzig 1850, 645: „Quae data opera abegit partum, ad tempus relegatur, ut Severus et Antonius rescripserunt: indigum enim est, eam impune maritum liberis fraudare"; *Ibidem*, 60, 51, 35, 869: „Quae accepta pecunia partum abegit, capite punitur. Quae vero post divortium odio martiti id fecit, ad tempus relegatur".

⁸⁰ Cf. J. BEAUCAMP, „La situation juridique de la femme à Byzance", *Cahiers de civilisation médiévale* 78-79 (avril-septembre 1977) 164.

⁸¹ Cf. M. PĂTRAȘCU, „Desfacerea legăturii matrimoniale în legislația civilă și canonică a Imperiului Bizantin din secolele VI-X", in *Dialog teologic* 8 (2001) 46.

In the VIIIth century, the woman who aborts, in addition to temporary exile, was punished, according to *Ecloga*, by being whipped⁸², law that will remain in force without annulling the previous ones, being met in *Ecloga aucta*, *Ecloga ad Procheiron mutat*, *Procheiron auctum*, *Epanagogè*, *Epanagogè aucta* și *Basilicorum libri*⁸³.

Another element encountered in *Digest* refers to drug manufacturers, including abortifacients, who, if they are of high rank, are sentenced to exile with confiscation of property; if they are of low condition, the punishment was forced labor in mines; if the administration of these substances was followed by the death of the woman, the punishment was capital⁸⁴.

In church law, abortion was considered a crime, including homicide, and could therefore be punishable by death or any other corporal punishment or imprisonment, punishments applied not only to the woman but also to those who collaborated in the crime, referring to the provisions of the Synod of Ancyra, the Council of Trullo and the canons of St. Basil the Great⁸⁵. Also canons 34 (*Punishment of those who cause the craftful loss of the fetus*), which quotes St. Basil the Great, and 36 (*Punishment for the willful loss of the fetus*) of the *Complete Canons* of John the Baptist († 619) amounted to abortion, even as a result of negligence, with premeditated murder. It should be noted that the same canons differentiate between induced abortion and miscarriage, as in the case of canon 34 (*Repentance for involuntary loss of the fetus*)⁸⁶. Subsequent texts, such as the *Nomocanon* of Photius of the IXth century and the *Syntagma* of Matthew Blastares of the XIVth century, are also tributary to the decisions of the said councils and the Cappadocian father, to which he adds provisions of imperial law: from *Digest* (Photius and Blastares) and *Short Stories* (Blastares)⁸⁷.

The texts of the canonical jurisprudence tell us too little about how to apply these canons. The most instructive is the *Kanonikon* of John the Younger, dating from the Xth century, which, although reminds of the canons that prescribed the penalty for murder, according to traditional practice, recommends reducing penance to five or even three years, which, in fact

⁸² „Euloga”, XVII, 36, in *Collectio librorum juris graeco-romani ineditorum*, ed. C.E.Z. DE LINGENTHAL, Leipzig, 1852, 49: “Εάν γυνή πορνεύσει καὶ γίνεται ἔγκυος, καὶ ἐπιβουλεύσει τῇ οἰκεῖᾳ γαστρὶ πρὸς τὸ ἐκτράῃσαι, τυπτομένη ἐξοριζέσθω”.

⁸³ Cf. M.-H. CONGOURDEAU, „Un procès d’avortement à Constantinople au 14e siècle”, 110.

⁸⁴ Cf. M.-H. CONGOURDEAU, „Un procès d’avortement à Constantinople au 14e siècle”, 109.

⁸⁵ Cf. *Nomocanon*, chap. XIII, art. X *De mulieribus fornicantibus, fetum perimentibus, vel ad necandos fetus medicamenta conficientibus*: PG 104, 1199.

⁸⁶ Cf. „Canoanele întregitoare”, in I.N. Floca, *Canoanele Bisericii Ortodoxe. Note și comentarii*, 490-491.

⁸⁷ Cf. M.-H. CONGOURDEAU, „Un procès d’avortement à Constantinople au 14e siècle”, 110.

represents for this text the punishment for murder, the voluntary one of five years, the involuntary one of three years⁸⁸.

5. Punishments provided by medieval jurisprudence

Medieval jurisprudence consists of various decrees and decretals, but also of the works of secular jurists, and we will refer to some of the documents below to see what penalties were foreseen for abortion.

The distinction made by the medieval decrees between abortion provoked before and after 40 days after conception, which we saw in Chapter I, also affected the penitential practice of the Church. If in the first case, the perpetrator of the abortion is not considered a criminal, in the second case anyone who causes the killing of the fetus is a murderer, which leads to the distinction between abortion in the strict sense and abortion in the broadest sense⁸⁹.

The culprit of abortion, according to the decrees, was to be treated like a murderer, but only in the internal forum, before God, not before the courts. Included in the category of murders, the punishment was also for that crime. But, unlike the seven-year sentence, Rufin leaves the penance to the confessor's trial. The distinction between voluntary and involuntary abortion is also reflected in Rufin's *Summa*, as involuntary abortion is not considered a crime⁹⁰.

But always having an external relevance, the crime of abortion must always be judged by a court of the Church. Here intervenes the differentiation between the formed and the unformed fetus, the punishment, as in the penitential manuals, being different. If the abortion was procured voluntarily before the fetus was formed, a three-year penance was required, and for the abortion of a formed fetus, the foreseen canonical punishment was that for homicide, since it was already a man, the murder being found thus full meaning⁹¹.

⁸⁸ Cf. M.-H. CONGOURDEAU, „Un procès d'avortement à Constantinople au 14e siècle”, 111-112.

⁸⁹ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 42.

⁹⁰ RUFIN, „Summa Decretorum”, causa XXXII q. 2, in *Die Summa Decretorum des Magister Rufinus*, ed. H. SINGER, 482: „Non tamen subibit penitentiam septennem sicut pro homicidio, potius iuxta arbitrium providi sacerdotis levius punietur. Si vero non voluntarie mulier abortiverit, criminis rea non erit”.

⁹¹ RUFIN, „Summa Decretorum”, causa XXXII q. 2, 482: „Si autem voluntarie aborsum mulier egerit vel alius eam abortire fecerit, refert, utrum formatum erat puerperium vel non. Si enim formatum non fuerat, tribus annis penitebit qui aborsum procuraverit... Si vero formatum iam erat, quia ob hoc homo fuisse intelligi potest – puerperii enim perfecta forma continuo infunditur anima –: qui abortionem fecit, homicida est etiam actu, et ideo ei canonica pro homicidio est penitentia imponenda”.

I saw the non-acceptance of the differentiations from John the Teutonic and his proposal to resort to civil legislation. But, he argues, just because the abortion of the unformed fetus is not a homicide, it cannot be concluded that the act is not a crime and, as such, is punishable by civil law, which also distinguishes between the formed and the unformed fetus, and like the Mosaic legislation, it punishes the abortion of the fetus formed with death, and of the unformed fetus with a different punishment⁹².

Bernard de Pavia, in the Vth book *De poenis* from his work *Compilatio*, in the Xth title *De homicidio voluntario vel casuali*, refers to the text analyzed by us in the *Book of Exodus*, after which, creating various hypotheses of abortion, he claims that, for canon legislation, it is important to determine whether the abortion was voluntary or involuntary and whether or not the fetus was formed. Penance for voluntary abortion is that for homicide. But, unlike other jurists, Bernard de Pavia argues that the Church must impose on the guilty in the internal forum penance for homicide and in the case of the abortion of an unformed fetus as well⁹³.

A case of abortion is analyzed in one of the *Decrees* of Pope Innocent III of October 4, 1211. The case concerned a priest, who was first a monk of the Carthusian Order who, living in cohabitation, forced the woman to have an abortion. For this reason, the priest was removed from the altar service. The case, presented to the pope, Innocent III was asked how to act showing mercy. The pontiff's answer was as follows: „...if the begotten was not yet animated, he will be able to serve; otherwise, he must refrain from serving the altar”⁹⁴. Through this document, Innocent III clearly established that the abortion of an animated fetus is a homicide, the one who commits it falling under the incidence of the laws related to this crime⁹⁵. This text of Pope Innocent III was taken over, in its entirety, by the *Decrees*

⁹² Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 42-43.

⁹³ Cf. BERNARD DE PAVIA, *Summa Decretalium*, l. V, title 10, c. 2, Ratisbona 1860, 348-349: „*Abortum fecerit: Quod hic indistincte dicitur, alibi distinguitur, sit formatum puerperium vel informe... Circa huiusmodi abortum hodie crederem distinguendum, an huiusmodi abortu secuta est mors, utriusque, scil. parientis et partus, an neutrius; si utriusque, duplex est homicidium, si alterutriusque, simplex, si neutrius, nullum; habenda est tamen in poenitentiam congrua distantia circa personam percutientis, scil. an id fecerit voluntate, an casu, ut dicitur in huius tit. summa. Illud etiam tenet ecclesia, ut, si puerperium erat informe, nihilominus tamen percussori de homicidio poenitentiam imponatur.*

⁹⁴ *Innocentii III Romani Pontificis regestorum sive epistolarum. Liber duodecimus. Pontificatus anno XII, Christi 1209: PL 216, 469: „...si nondum erat vivificatus conceptus, poterit ministrare; alioquin ab altaris officio debet abstinere”.* *Innocentii III Romani Pontificis regestorum sive epistolarum. Liber duodecimus. Pontificatus anno XII, Christi 1209: PL 216, 469. Cf. and Regesta Pontificum Romanorum inde ab a. post Christum natum MCXCVIII ad a. MCCCIV, I, ed. A. POTTHAST, Berlin, 1874, 372.*

⁹⁵ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 43.

of Pope Gregory IX (1227-1241), in book V, title XII *De homicidio voluntario vel casuali*, chapter XX *Qui dat causam abortioni, homicida est, si conceptum erat vivificatum animal rationale; alias secus*⁹⁶, being then promulgated as a universal law of the Church⁹⁷.

Saint Raymund de Peñafort in his *Summa* emphasizes another aspect of the crime of abortion, stating, as I said, that the killing of an unformed fetus is a homicide. The subject is analyzed in the second book, the first title *De homicidio*. In the fourth point of that title, it is asked the question: „If someone strikes a pregnant woman, or gives her a drug, or she receives it herself, to have an abortion, or does not conceive; whether it is a homicide or an irregularity”⁹⁸. He replies that if the fetus was already formed, then it is homicide: *Si puerperium erat jam formatum, sive animatum, homicida est recte*. The second question in this fourth point concerns the doubt concerning the death, abortion or malformation of the fetus⁹⁹. The answer depends on the time of doubt: if it is probable, the clergyman cannot exercise his ministry; in case of slight doubt, of a reckless opinion, if he has to cast doubt, then the clergyman may serve, otherwise he will not¹⁰⁰. Therefore, Raymund de Peñafort, like other authors mentioned above, applied the punishment for abortion only if the fetus was already formed, and the irregularity, for clergy, as the most severe punishment, was applied only in case of a voluntary abortion of a formed fetus¹⁰¹.

⁹⁶ Cf. *Decretales Grigorii Papae IX suae integritati una cum glossis restitutae*, Roma 1582, 1713. Here we fully reproduce the text of Pope Gregory IX which reproduces that of Innocent III: „Sicut ex literarum vestrarum tenore accepimus quum quidam presbyter vestri ordinis, qui prius fuerat niger monachus, quandam mulierem praegnantem, cum qua contraxerat consuetudinem inhonestam, et quae asserebat, se concepisse ex eo, per zonam arripuerit, quasi ludens, ipsa mulier postmodum per hoc sic se asseruit esse laesam, quod occasione huiusmodi abortivit; propter quod idem presbyter, proborum virorum usus consilio, se ipsum duxit ab altaris ministerio sequestrandum. Quare nobis humiliter supplicastis, ut cum eo agere misericorditer dignaremur. Nos vero devotioni vestrae insinuatione praesentium respondemus, quod, si nondum erat vivificatus conceptus, ministrare poterit; alioquin debet ab altaris officio abstinere”.

⁹⁷ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 44.

⁹⁸ „Quid, si aliquis percutit mulierem praegnantem, vel dat ei venenum, vel ipsamet accepit, ut abortivum faciat, vel ut non concipiat; numquid talis iudicabitur homicida, aut irregularis?”

⁹⁹ „Quid si dubitatur utrum sit mortuus, vel abortivus factus ex illa percussione necne, vel utrum fuerit animatus necne”.

¹⁰⁰ RAYMUND DE PEÑAFORT, *Summa*, II, I, 4, Verona 1744, 143: „Si probaliter dubitat, vel credit ille, qui percussit; in hoc dubio a ministerio, et a promotione se debet abstinere, ne periculo se comittat, quamdiu fuerit in hoc dubio; si autem levio, aut temerarium habet opinionem, deponat eam, si potest; et sic poerit ministrare, et promoveri, alias non”.

¹⁰¹ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 44-45.

Although he does not refer strictly to the field of law, Thomas Aquinas, a participant in the theory of animating the fetus after a certain period of conception, argues that as long as the fetus is not formed, namely does not yet have a rational soul, its abortion cannot be considered as homicide, the reason for the person who caused the abortion cannot be subjected to the canonical consequences provided for this crime, including irregularity¹⁰².

Some of the authors who tried to solve the problem opened by the *Decretum Gratiani* mentioned in Chapter I appealed to Roman law. Commenting on the sanction of exile with which the woman who voluntarily destroyed her entrails to eliminate her fetus was threatened by Justinian's code, Accursius claims that this sanction was justified in the fact that the abortion was performed before 40 days – *ante quadraginta dies* – from conception, that is, when the baby was still “not human”¹⁰³. Accursius, distinguishing between the formed and the unformed fetus, states that in both cases the one who performed the abortion must be punished, only that the punishment must be different: in the case of an unformed baby the woman who aborted must be exiled, and in the case of the formed, being homicide, the punishment must be capital¹⁰⁴, referring to the *Institutions* of Aelius Marcianus¹⁰⁵. The death penalty for the abortion of any animated fetus was also foreseen by Bartolo de Saxoferrato (1313-1356), with the difference that he extended this punishment to abortion procured at any time during the fetus' life, but for money¹⁰⁶.

As we have seen, Baldo degli Ubaldi, who tries to establish a human concordance between canon and Roman law, in order to establish the norms of statutory law, moves away from Roman law, which denies the quality of man to the monstrous born, but also from canon law, according to which the fetus is a human being¹⁰⁷. Claiming that the fetus is not a human

¹⁰² TOMA DE AQUINO, „Commentum in quartum librum sententiarum magistri Petri Lombardi”, d. III, q. II, Expositio textus, Paris 1933, 127, in *Doctoris angelici divi Thomae Aquinatis Sacri Ordinis F. F. Praedicatorum Opera omnia*, XI, 127: „Tamen est minus quam homicidium; quia adhuc poterat alio modo impediri conceptus. Nec est iudicandus talis irregularis, nisi jam formato puerperio abortum procuret”.

¹⁰³ P. FERRETTI, *In rerum natura esse, in rebus humanis nondum esse: l'identità del concepito nel pensiero giurisprudenziale classico*, Giuffrè Editore, Trieste 2008, 24.

¹⁰⁴ Cf. *Digestorum novum seu Pandectarum Iuris Civilis. Tomus tertius, cum lectionum florentinarum, varietatibus, diligentius quam antea in margine apposis, ac post Accursii commentarios*, Venice 1621, 1577: „Exilium ante quadraginta dies: quia ante non erat homo: postea de homicidio tenetur secundum legem Moysi, vel legem Pompeiam de parricidiis”.

¹⁰⁵ P. FERRETTI, *In rerum natura esse, in rebus humanis nondum esse: l'identità del concepito nel pensiero giurisprudenziale classico*, 24, note 44.

¹⁰⁶ Cf. BARTOLO DE SAXOFERRATO, *Omnium Iuris Interpretum Antesignani. Commentaria*, VI, Venice 1602, 133v: „...fecisset pro pecunia, quam tunc puniret capite”.

¹⁰⁷ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 45.

being, Baldo degli Ubaldi writes that the culprit of abortion cannot be punished¹⁰⁸.

Finally, we will present the legal conception of Diego de Covaruvias y Leyva (1512-1577) who, in the *Kings of the Councilors*, in the second part, the third title *De abortu, bello et homicidio*, answers the question of whether abortion is liable to irregularity and can be considered homicide. Also a tribute to the conception of time regarding the animated and inanimate fetus, Covaruvias argues that the one who procured the abortion before the fetus was animated should not be considered a murderer, but should be punished with exile. However, if the abortion was caused after the fetus was animated, then the punishment must be capital, since the fetus, being already animated, is homicide. The same condition of fetal animation is imposed on this author for irregularities¹⁰⁹.

6. Punishments foreseen by the magisterium until the codification of canon law

We have already seen so far that abortion has been considered in Christianity as a crime, classified as homicide. Along with the Church Fathers, the ecumenical or local councils of the Ist millennium, penitential manuals, decrees, various punishments for this crime were included in various documents of the pontifical magisterium. We will see what these punishments were provided in the church teaching until the codification of canon law in the Pio-Benedictine Code of 1917.

A first step was taken by Pope Stephen V in the already mentioned letter *Consuluisti de infantibus*. In this text, the pontiff states that, “those who prove or confess that [they are guilty] of such a crime [of abortion], your mastery must punish them, because he is a murderer, if what has been conceived in the womb is destroyed by abortion”¹¹⁰, but without indicating

¹⁰⁸ Cf. BALDO DEGLI UBALDI, *In prima et secundam infortiati partem. Commentaria*, Venice, 1577, 58v: „...qua poena puniatur faciens fieri partum abortium not.in.c. sicut dognum, el ij.extra de hom.”

¹⁰⁹ Cf. DIEGO DE COVARUVIAS Y LEYVA, *Opera omnia*, I, Lyon 1661, 538: „Nihilominus quoad irregularitate, necessarium est, quod foetus tempore abortionis sit iam vero in utero animatus: alioqui non est proprie homicidium, quod irregularem efficiat dentem abortioni causam... Tenerit ut homicidam eum, qui abortioni foetus nondum animati causam dederit. Nam vere homicida non est, nec proprie homicidium ex hoc contrahitur: licet punitio locum habeat extraordinaria: nempe exilij... Igitur qui abortioni foetus nondum animati causam dederit, homicida verus non est, et tamen admodum similis, et ideo punitur ut homicida, poena quidem extrordinaria: et mortale crimen ac peccatum...”

¹¹⁰ STEPHEN V, Letter *Consuluisti de infantibus*: DH 670: „hi autem qui probantur vel confitentur talis reatus se noxios, tua eos castiget moderatio, si conceptum in utero qui per abortum deleverit, homicida est”.

what kind of punishment should be imposed on him. We can deduce that, being in the full period of the penitentiary manuals, the addressee of the letter, Bishop Ludbert, could resort to one of them to impose the punishment for the crime of abortion.

The Council of Trent does not deal directly with abortion. Commentators, however, on the line already opened by previous documents and the teaching of the Church Fathers and medieval theologians, apply for the crime of voluntary abortion of an animated fetus the same punishment provided for homicide¹¹¹. Regarding murder, the *De reformatione* decree of the council, in canon 7, established:

Whoever intentionally or treacherously kills his neighbor must be removed from the altar; who voluntarily committed murder, even if this crime has not been proven by a lawsuit and has not become a public cause, but has remained hidden, will never be able to be promoted to sacred orders and will not be able never to be granted an ecclesiastical benefit, even without the care of souls. To be excluded forever from any ecclesiastical order, benefit, office¹¹².

Therefore, the Council of Trent takes over the previous canonical legacy of homicide, a category in which, as we have seen, abortion was included. The punishment, however, refers, as can be seen from the text of the canon, only to the impossibility of receiving the sacred orders¹¹³.

The bull *Effraenatam* of Pope Sixtus V is a key document for the subject of interest. In the first part of the document, the pontiff lists the punishments prescribed for him for abortion, wondering:

Who will not condemn with the most severe punishment the iniquity of him who has excluded from the beatific vision of God a soul created in the image of God, for the redemption of which Christ our Lord shed his blood...? Finally, who will not punish with very severe punishments those who, through poisons or pharmaceutical preparations or evil deeds, will make women sterile or will prevent, by evil drugs, to conceive or give birth¹¹⁴.

¹¹¹ Cf. S. MARCILA CATALÁN, „El delito canónico de aborto: praxis sacramental y abolición de la censura” (I), in *Mayéutica* 20/I (1994) 158.

¹¹² COUNCIL OF TRENT, Sessio XIV, „De reformatione”, VII, in *Sacrosanctum Concilium Tridentinum, additis declarationibus cardinalium*, Augsburg 1781, 198: „Cum etiam qui per industriam occiderit proximum suum et per insidias ab altari avelli debeat qui sua voluntate homicidium perpetraverit etiam si crimen id nec ordine iudiciario probatum nec alia ratione publicum sed occultum fuerit nullo tempore ad sacros ordines promoveri possit nec illi aliqua ecclesiastica beneficia etiam si cura non habeant animarum conferri liceat sed omni ordine ac beneficio et officio ecclesiastico perpetuo careat”.

¹¹³ Cf. S. MARCILA CATALÁN, „El delito canónico de aborto: praxis sacramental y abolición de la censura” (I), 158.

¹¹⁴ Cf. SIXTUS V, Bull *Effraenatam*, 40: „Quis non gravissimis suppliciis damnet illius impietatem, qui animam Dei immagine insignitam, pro qua redimenda Christus Dominus

Before setting out his decision, the pope recalled the canonical tradition regarding abortion, mentioning the decisions of the VIth Council of Constantinople and the Council of Lerida, the first foreseeing the punishment of homicide for abortion, the last prescribing a penance for life, if they have resorted to the mercy of the Church, and if a clergyman is guilty of murder, to be removed from service¹¹⁵.

In the order of the sanction for this crime, Sixtus V does not make any difference between the animated and the inanimate fetus, just as no exception is allowed regarding the persons who procured the abortion, the responsibility returning also to the persons who, in any way, collaborated. to abortion and its criminal consequence. The bulla also condemns all methods, direct and indirect, that cause abortion¹¹⁶:

Everyone, both men and women, regardless of status, degree, order, rank and condition, even clerics, secular or belonging to any monastic order, regardless of dignity and ecclesiastical prominence or worldly brilliance, whether by itself or by third parties procures the abortion of both the animated and the inanimate fetus, both formed and unformed, so that it is expelled by hitting, poisons, drugs, drinks, burdens and labor imposed on the pregnant woman and even by other unknown and extremely so that abortion really follows, and even the same pregnant woman, who knowingly did the above, endures sanctions and punishments established by divine and human laws and by canonical sanctions and apostolic constitutions and which civil and profane law applies to the real killers who actually and truly committed murder and, through this Constitution of ours permanently valid, we establish and order that the same punishments and laws and constitutions be extended in the cases mentioned above¹¹⁷.

noster preciosum Sanguinem fudit...? Quis denique non damnet gravissimis suppliciis illorum scelera, qui venenis, potionibus, ac maleficiis, mulieribus sterilitatem inducunt, aut ne concipiant, nec pariant, maleficis medicamentis impediunt?"

¹¹⁵ Cf. SIXTUS V, Bull *Effraenatam*, 40: „Unde non immerito sexta Synodo Constantino-politana sancitum est, ut personae quae dant abortionem scientia medicamenta, et quae foetus necantia venena accipiunt, homicidae poenis subiiciantur, sed, et veteri Concilio Ilerdensi cautum est, ut qui conceptos ex adulterio foetus necare studuerint, vel in ventribus matrum potionibus aliquibus colliserint, si postea poenitentes ad Ecclesiae mansuetudinem recurrant, omni tempore vitae suae fletibus, et humilitati insistant, si vero Clerici fuerint, officium ministrandi eis recuperare non liceat”.

¹¹⁶ Cf. S. MARCILA CATALÁN, „El delito canónico de aborto: praxis sacramental y abolición de la censura” (I), 159.

¹¹⁷ SIXTUS V, Bull *Effraenatam*, 40-41: „Omnes, et quoscumque, tam viros, quam mulieres, cujuscumque status, gradus, ordinis, ac conditionis, etiam Clericos, saeculares, vel cujusvis Ordinis regulares, quavis dignitate, & praeeminentia Ecclesiastica, vel mundana fulgentes, qui de cetero per se, aut interpositas personas abortus, seu foetus immaturi, tam animati, quam etiam inanimati, formati, vel informis ejectionem procuraverint percussionibus, venenis, medicamentis, potionibus, oneribus, laboribusque mulieri praegnanti impositis, ac aliis etiam incognitis, vel maxime exquisitis rationibus, ita ut re ipsa abortus inde secutus fuerit, ac etiam praegnantes ipsas mulieres, quae scienter praemissa fecerint, poenas tam divino, quam

Bull of Sixtus V also took into account the case of clergymen who were guilty of abortion, providing for them the punishment cited above in the Council of Trent for murderers, namely the deprivation and dispossession forever of ecclesiastical benefits, privileges, dignities. and the impossibility of receiving them in the future. As for the candidates for the sacred orders, if they were found guilty of the crime, the abortion, according to the provisions of bulla, became irregular¹¹⁸.

The document takes into account not only the procured abortion, but also contraception, for which it prescribes the same punishments as in the case of the first, under which the woman who takes them, and the people who prepare them, offer them and those who advise the woman to receive¹¹⁹.

Another important aspect that we want to highlight when referring to bull *Effraenatam* is the imposition of censorship:

In addition, we want and command that the inhuman gravity of these crimes be punished not only by temporal sanctions, but also by spiritual censorship, and for this reason we decree that everyone, regardless of status, rank, order, both lay, as well as clerics, lay people, monks of any order, as well as lay women or women professed in any monastic order, who, as principal or accomplices in knowingly committing the offense mentioned by work, counsel, favoritism, or drink, or any other medicine ..., in addition to the mentioned sanctions, they are *ipso facto* excommunicated and we declare them excommunicated¹²⁰.

humano jure, ac tam per canonicas sanctiones, et apostolicas constitutiones, quam civilia jura adversus veros homicidas, que homicidium voluntarium actu, et re ipsa patrauerint, propositas, et inflictas eo ipso incurrere, hac nostra perpetuo valitura constitutione statuimus, et ordinamus, ipsasque poenas leges, et constitutiones ad casus praefatos extendimus”.

¹¹⁸ SIXTUS V, Bull *Effraenatam*, 41: „Eos vero qui clerici fuerint, omni privilegio clericali, officiis, dignitatibus, et beneficiis ecclesiasticis..., ipso facto privamus, et in futurum inhabiles ad ea suscipienda decernimus, adeo ut illi, qui hoc delictum commiserint, non secus atque ii qui sua voluntate homicidium perpetraverint juxta concilii Tridentini decreta, etiamsi crimen id, nec ordine judiciario probatum, nec alia ratione publicum, sed occultum fuerit, ad sacros ordines promoveri, aut in susceptis ordinibus ministare nullo modo possint, nec illis aliqua ecclesiastica beneficia, etiamsi curam non habeant animarum, conferri liceat, sed omni ordine, ac beneficio, et officio perpetuo careant. Necnon et illos qui clerici non fuerint, et talia perpetraverint, non solum poenas incurrere supra narratas, sed etiam inhabiles ad ordines, et alia praedicta decernimus, et declaramus”.

¹¹⁹ SIXTUS V, Bull *Effraenatam*, 41: „Praeterea eisdem poenis teneri omnino statuimus eos, qui sterilitates potiones, ac venena mulieribus propinaverint, et quo minus foetum concipiant impedimentum praestiterint, ac ea facienda, et exequenda curaverint, sive quocumque modo in his consuluerint, ac mulieres ipsas quae eadem pocula sponte, ac scienter sumpserint”.

¹²⁰ SIXTUS V, Bull *Effraenatam*, 41-42: „Insuper ut immanissimi hujus delicti gravitati, non solum temporalibus, verum etiam piritualibus poenis prospiciamus ac provideamus, omnes, et singulos cujuscumque status, gradus, ordinis, vel conditionis existentes, tam laicos, quam clericos, saeculares, et cujuscumque ordinis regulares, necnon mulieres saeculares, vel quemcumque ordinem professas, qui vel quae, vel uti principales, vel ut sociae consciaeve ad tale facinus committendum opem, consilium, favorem, potionem, vel alia cujuscumque

Therefore, bull applies to the guilty the punishment of excommunication *latae sententiae* reserved for the Holy See, except for the danger of death, deprivation of any privileges, offices, dignities and ecclesiastical benefits, the impossibility for the future to benefit, as well as admission to the sacred orders of clergy, being applied all the punishments of the civil law¹²¹.

Finally, a final aspect of Pope Sixtus V's bulla is the release of these censors, a point we will refer to below.

The administrative difficulties raised by the reservation of excommunication, as well as the elimination of the distinction between the animated and the inanimate fetus contradicted the practice of the Apostolic Penitentiary and the theories of the canonists and moralists. For this reason, Pope Gregory XIV has already issued the aforementioned bull *Sedes apostolica*, which reforms and mitigates the criminal sanctions provided for abortion, limiting them only to the case of the animated fetus¹²².

Specifically, Gregory XIV returned to the legal discipline that existed before the bull *Effraenatam* of Sixtus V¹²³, but kept the penalty of excommunication, equivalent to homicide, for those who procured the abortion of an animated fetus¹²⁴.

Only in the 19th century, as I mentioned, that Pope Pius IX eliminated the difference between the animated fetus and the inanimate fetus. By the Constitution *Apostolicae Sedis*, the sovereign pontiff, completely reorganizing the criminal law of the Church, sanctioned with excommunication *latae sententiae*, reserved for bishops and ordinary people, all those who cause abortion followed by effect¹²⁵, decision that will be taken, as we will see, in the codes of canon law of the Catholic Church.

generis medicamenta scienter dederint..., ultra supradictas poenas, ipso facto, nunc prout ex tunc excommunicamus, et pro excommunicatis declaramus.

¹²¹ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 49.

¹²² Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 49; Gregory XIV, Bull *Sedes apostolica*, 430: „Cum igitur postmodum experientia docuerit ex remedio hujusmodi, non que sperabatur, utilitatem et fructum provenisse, verum potius multis Satanae malitia ad pecandum inductis, difficiliore oh soli Sedi Apostolicae reservatam absolvendi facultatem”.

¹²³ Cf. GREGORY XIV, Bull *Sedes apostolica*, 430: „Quo vero ad poenas procurantium Abortum foetus inanimis, aut exhibentium mulieribus, vel sumentium venena sterilitatis, aut quoquomque modo auxilium, vel consilium eis dantium, in praedicta Constitutione contentas, Constitutionem praefatam in ea parte, ubi de his agit, ad terminos juris communis, ac Sacrorum Canonum, et Conc. Trident. Dispositionem, auctoritate Apostolica tenore praesentium, tam quo ad praeterita, quam quo ad futura, perpetuo reducimus, perinde ac si eadem Constitutio in hujusmodi parte numquam emanasset”.

¹²⁴ Cf. S. MARCILA CATALÁN, „El delito canónico de aborto: praxis sacramental y abolición de la censura” (I), 160.

¹²⁵ Cf. PIUS IX, Constitution *Apostolicae Saedis*, 64-65: „Excommunicationi latae sententiae Episcopis sive Ordinariis reservatae subiacere declaramus: 2. Procurantes abortum, effectu sequuto”.

Commentators at the time pointed out that an indispensable requirement for this punishment was for the abortion to be procured, namely followed by effect, and to take place by the means used for that purpose and not as a result of an accidental cause. At the same time, it is no longer considered whether the fetus is animated or inanimate, or whether it is caused by the same woman or another person¹²⁶.

7. Punishments foreseen by the codes of canon law

The codification of church legislation did not overlook abortion. In the following we will present what punishments were provided for this crime in the 1917 code, as well as the discussions during the revision of the respective code, in order to end with the punishments provided by the 1983 code and that of the Eastern Churches.

Following the line I saw exposed at the Council of Trent, as well as at Pope Sixtus V, the *Codex Iuris Canonici* of 1917 first clearly established that abortion is an irregularity for those who aspire to sacred orders: „Those who committed homicide or caused the abortion of a human fetus, followed by the effect, and all cooperators are irregular by crime”¹²⁷.

Canon 2350, which we have already mentioned in the first part, foresees the same punishment that we encountered during the presentation, namely the excommunication of *latae sententiae* or the deposition from the clerical state: „Those who cause an abortion, without excluding the mother, as a result of the effect, fall into the excommunication *latae sententiae* reserved for the ordinary; and if they are clerics, they must be deposed”¹²⁸.

We mention, first, that, following the norm of this canon, premature birth, fetal death before human intervention or indirect abortion cannot be considered a crime of abortion. Also, according to the norms of canons 2350 and 2195, in order for the crime of abortion procured, there must exist three constitutive elements: the subjective element, namely deceit, indicated in canon 2350 with the words *procurantes abortum* – “those who procure abortion”, the objective element – external violation of law – is contained in the words *effecto secuto* – “effect following”; the legal element, the concrete case of the crime¹²⁹.

¹²⁶ Cf. S. MARCILA CATALÁN, „El delito canónico de aborto: praxis sacramental y abolición de la censura” (I), 162.

¹²⁷ *CIC 1917*, can. 985 § 4, 281-282: „Sunt irregulares ex delicto qui voluntarium homicidium perpetrarunt aut fetus humani abortum procuraverunt, effectu secuto, omnesque cooperantes”.

¹²⁸ *CIC 1917*, can. 2350, 642: „Procurantes abortum, matre non excepta, incurrunt, effectu secuto, in excommunicationem latae sententiae Ordinario reservatam; et si sint clerici, praeterea deponantur”.

¹²⁹ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 63-64.

Another fact that we draw attention to is the inclusion of the formula *matre non excepta* – “without excluding mother”. In the Constitution *Apostolicae Saedis*, Pius IX did not mention it, while in the past it was also punished, but, according to some authors, unlike those passed in the category *procurantes*, in time other researchers consider that it was also included in that category. *Codex Iuris Canonici* 1917 puts an end to this controversy, the censorship provided for the crime of abortion procured also referring to the mother¹³⁰.

The scheme of the new code of canon law of 1973 established that “whoever procures an abortion falls under the interdict of *latae sententiae*, and, if he is a clergyman, suspended” (can. VI)¹³¹. It is noticed in the text of this canon that, unlike the *CIC* 1917, the punishment for abortion was changed: it was no longer an excommunication *latae sententiae*, but an interdict, while for clerics the punishment was changed with *suspensio* instead of *depositio*. Another fact that should be noted is the disappearance of the phrase *matre non excepta*¹³².

The 1980 scheme, in canon 994, reproduced almost entirely the canonical norm of the *CIC* 1917, canon 985 § 4. Mentioning those who could not receive the sacred orders also included those who caused the abortion followed by the effect, as well as all those who cooperated positively¹³³. Canon 999 of the scheme provided that “irregularities and impediments shall be multiplied by their various causes, but not by the repetition of the same cause, if there is an irregularity [arising] from manslaughter and procured abortion, followed by the effect”¹³⁴.

Canon 1350 of the scheme reproduces almost entirely the text of the 1973 scheme on the penalty for abortion, with the only amendment being added *effectu secuto*¹³⁵, which meant that only abortion followed by effect could be subject to that punishment, namely the interdict.

Following the tradition of the Church, in *Schema novissimum* of 1982, excommunication was reintroduced as a punishment for the crime of abortion procured, as a result of cases increase. Canon 1350 stipulated the following:

¹³⁰ Cf. A. CHRAPKOWSKI, *Il delitto dell'aborto procurato*, 67.

¹³¹ PONTIFICAL COMMISSION FOR REVISING THE CODE OF CANON LAW (= PCRCCCL), *Schema documenti quo disciplina sanctionum seu poenarum in Ecclesia Latina denuo ordinatur (Reservatum)*, Typis Polyglottis Vaticanis, Città del Vaticano, 1973, 31: „qui abortum procurat, in latae sententiae interdictum incurrit, et, si clericus, etiam in suspensionem”.

¹³² Cf. Chrapkowski, *Il delitto dell'aborto procurato*, 76-77.

¹³³ CPRCDC, *Schema Codicis Iuris Canonici*, 227.

¹³⁴ CPRCDC, *Schema Codicis Iuris Canonici*, 227: „irregularitates et impedimenta multiplicantur ex diversis eorundem causis, non autem ex repetita eadem causa, nisi agatur de irregularitate ex homicidio voluntario aut ex procurato fetus humani abortu, effectu secuto”.

¹³⁵ CPRCDC, *Schema Codicis Iuris Canonici*, 302.

1. The penalty of excommunication is retained, although in the new legislation the interdict is almost the same as excommunication, because the change of the term for today's times, in which abortion around the world is getting bigger and bigger, is considered at least opportune. 2. According to Card. Rugambwa can. 2350 § 1 *CIC* should be preserved *ad litteram*¹³⁶.

Instead, the provision on suspension in the case of clerics who cause abortion has disappeared from that text, which does not mean that they were not punished¹³⁷. Therefore, the amended text of the canon is read as follows: "Whoever causes an abortion, followed by the effect, falls into excommunication *latae sententiae*"¹³⁸.

Thus, we arrive at the norm present in the *Code of Canon Law* from 1983. Canon 1041 of the respective code refers to impediments and also preserves the previous norm, namely it is excluded from ordination the one who "committed voluntary murder or procured abortion followed by effect, and all those who cooperated positively"¹³⁹.

It was included in the new code the regulation of canon 999 of the 1980 scheme, which states that "irregularities and impediments are multiplied by their different causes, but not by the repetition of the same cause, except for the irregularity resulting from voluntary manslaughter or abortion, followed by effect" (can. 1046)¹⁴⁰, which means that, in the case of abortions followed by effect, the impediments multiply, for which reason, when the exemption is requested, the number of abortions for which a person is guilty should be indicated (cf. can. 1049 § 2), and in case of a general dispensation, it has no effect¹⁴¹.

¹³⁶ CPRCDC, *Complectens syntheses animadversionum ab em.mis atque exc.mis patribus Commissionibus ad Novissimum Schema Codicis Iuris Canonici exhibitarum, cum responsionibus a secretaria et consultoribus datis*, Typis Polyglottis Vaticanis, Città del Vaticano, 1973, 304-305: „1. Conservanda est poena excommunicationis quamvis in nova legislatione interdictum fere idem sit ac excommunicatio, nam mutatio vocabuli hodiernis temporibus quibus crimen abortus in toto mundo semper maiores dimensiones assumit, minime opportuna videretur. 2. Iuxta Card. Rugambwa retineri debet ad litteram can. 2350, § 1 C.I.C.”.

¹³⁷ Cf. R. OWEN MORRISSEY, *The Canonical Effects of Abortion in the 1983 Code of Canon Law*, Pontificia Studiorum Universitas, Rome 1995, 57.

¹³⁸ PCRCCCL, *Complectens syntheses animadversionum...*, 305: „Qui abortum procurat, effectu secuto, in excommunicationem latae sententiae incurrit”.

¹³⁹ *CIC* 1983, can. 1041: AAS 75/II (1983) 183, tr. I. Tamas, *Code of Canon Law*, 633: „Qui voluntarium homicidium perpetraverit aut abortum procuraverit, effectu secuto, omnesque positive cooperantes”.

¹⁴⁰ *CIC* 1983, can. 1046: AAS 75/II (1983) 184, tr. I. Tamas, *Code of Canon Law*, 635: „Irregularitates et impedimenta multiplicantur ex diversis eorundem causis, non autem ex repetita eadem causa, nisi agatur de irregularitate ex homicidio voluntario aut ex procurato abortu, effectu secuto”.

¹⁴¹ Cf. L. CHIAPPETTA, *Prontuario di diritto canonico e concordatario*, Edizioni Dehoniane, Rome 1994, 8.

If a member of a monastic institute caused an abortion followed by effect or actively cooperated in it, according to the canon 695 § 1, he is to be removed from the institute; the same penalty is to be applied to a member of secular institutes or societies of consecrated life, the rule foreseen in canon 729, and respectively, 746¹⁴².

Another canon that explicitly refers to abortion is the canon 1398: „Whoever procures an abortion, followed by the effect, falls into excommunication *latae sententiae*”¹⁴³. It is obvious the continuity with the previous legislative norm, also exposed in the 1982 scheme, which, unlike the previous schemes, provided as a punishment the interdict and not the excommunication.

What happens if the procured abortion is not followed by the effect? In this case we have the abortion attempt and the provisions of canon 1328 apply, so it is not subject to the punishment established for abortion¹⁴⁴.

We cannot overlook the norms of the *Code of Canons of the Eastern Churches*. Canon 762 § 1 4° of this code indicates persons subject to irregularities, including those “who commit manslaughter or procure abortion followed by effect and all those who cooperate positively”¹⁴⁵. As can be seen, the norm reproduces canon 1041 of the *CIC* 1983, just as canon 766 reproduces in full canon 1046 of the Latin code, in canon 768 § 2 being kept in the same canonical norm of the *CIC* 1983, can. 1049 § 2, which provides that, “in case of an irregularity arising from voluntary manslaughter or procured abortion, the number of offenses shall be indicated for the validity of the dispensation”¹⁴⁶.

Finally, canon 1450 provides for the punishment received by the one who procures abortion, a crime which, as in Latin law, is equivalent to homicide: „§ 1. Whoever commits murder should be punished with major excommunication; the cleric should be punished with another punishment, not excluding the deposition. § 2. In the same way, the one who procures abortion followed by effect is punished, remaining in force can. 728 § 2”¹⁴⁷.

¹⁴² Cf. L. CHIAPPETTA, *Prontuario di diritto canonico e concordatario*, 8.

¹⁴³ *CIC* 1983, can. 1398: AAS 75/II (1983) 242: „Qui abortum procurat, effectu secuto, in excommunicationem latae sententiae incurrit”.

¹⁴⁴ Cf. CHIAPPETTA, *Prontuario di diritto canonico e concordatario*, 7.

¹⁴⁵ *CCEO*, can. 760: AAS 82 (1990) 1214: „Qui voluntarium homicidium perpetravit aut abortum procurava effectu secuto omnesque positive cooperantes”.

¹⁴⁶ Cf. *CCEO*, cann. 766, 768: AAS 82 (1990) 1215: „Si agitur de impedimento ex voluntario homicidio aut ex procurato abortu, etiam numerus delictorum ad validitatem dispensationis exprimendus est”.

¹⁴⁷ Cf. *CCEO*, can. 766: AAS 82 (1990) 1215: „§ 1. Qui homicidium patravit, puniatur excommunicatione maiore; clericus praeterea aliis poenis puniatur non exclusa depositione. § 2. Eodem modo puniatur, qui abortum procuravit effectu secuto, firmo can. 728, § 2”.

8. The punishments prescribed by the orthodox legislation in the Romanian area

The church rule from Govora provided that “hours that woman will drink herbs, not give birth to cocoon” and be subject to repentance for 7 years and 200 prostrations per day. Referring strictly to the elimination of the fetus from the mother’s womb, the same rule writes that “woman will begin, and some charms will be drunk to drain; to deny the beginning of the trance”, that woman should be imposed a penance of 8 years and 367 prostrations per day. If, as a result of the abortion, that woman dies, the rule briefly prescribed: “not to be buried” [Christianly]¹⁴⁸.

The correction of the Law or the Great Rule of Matthew Basarab, following the teachings of Saint Basil the Great and the Council of Ancyra, punished abortion, placing it in the category of murder, dedicating to this crime *Glava* 374. Both contraception and direct killing of the fetus were considered: „Who among women will carry herbs or eat them [for] not to make sons, or will do otherwise to kill the child in her womb, or will poison her skull where she will conceive the child so as not to make more children, so that should be canonized as a murderer”. As punishment, “years 5 or 3 were required to be bargained and canonized; then to obey”. A ten-year canon was provided for prostitutes “who kill their children in their wombs”¹⁴⁹.

The same *Correction of the Law* renders in full the canons of the Council of Ancyra. Regarding abortion, we find written, in addition to the provision regarding prostitutes who abort, the following: „Who will take herbs to ruin the maw where the cocoons grow, to repent for 10 years”¹⁵⁰. The canon of the Trullan Council, which refers to abortion, is then reproduced and interpreted. Following this, the *Correction* assimilates to “murderers of men” those who “give and take belly-killing herbs”. Therefore, “under the canon of murderers lie both those who take and give herbs that kill sons”¹⁵¹. Thus, the woman who breaks down at the beginning of the burden (pregnancy – *n.n.*), when she will break down not to have boys, is a killer”. The same category included the woman who “takes herbs to kill the one who made her pregnant”. The punishment was 10 years of penance¹⁵².

In the *Compendium of Law* of Metropolitan Andrei Saguna, among the “destructive impediments to marriage in our church” (Orthodox – *n.n.*) is

¹⁴⁸ Cf. „Pravila bisericească numită cea mică”, în *Colecțiune de legiuirile României vechi și cele noi*, III, București 1885, 115.

¹⁴⁹ Cf. *Îndreptarea legii* (1652), Editura Academiei Republicii Populare Române, București 1962, 350.

¹⁵⁰ Cf. *Îndreptarea legii* (1652), 410.

¹⁵¹ Cf. *Îndreptarea legii* (1652), 515.

¹⁵² Cf. *Îndreptarea legii* (1652), 532.

the procured abortion, or, as the text states: „the loss and killing of the intended fetus”, caused by “fetal killer drinks”, either by the man, who offers them to the woman, or by the woman who “secretly drinks something that kill her fetus”¹⁵³.

In the *Canons of the Orthodox Church* published in Arad in the 1930s, there are two references to abortion. Thus, canon 91 of this collection of canons, having as reference, the decisions of the Synod of Ancyra and the already mentioned text of Saint Basil the Great, states: „Women who give abortion-provoking drugs and those who receive baby-killing poisons should be punished as murderer”¹⁵⁴. Another canon, based on the statements of the *Trullan Synod* and those of the bishop of Caesarea, foresees:

Women who are fornicating and killing their fetuses, and who are engaged in the preparation of means of abortion, the previous decision stopped them until they came out [of life], and this [decision] is hold [in public]. But finding something [to treat them] gentler, I decided to serve [in penance] for ten years, according to the determined steps¹⁵⁵.

Conclusion

„*Incurrunt in excommunicationem* – fall in excommunication”. Three words that indicate the seriousness of the sin of abortion, considering that excommunication is the greatest punishment provided by church law for some crimes. The foray I made into the history of abortion punishment shows that, right from the beginning of the Church, this “abominable crime” has always been considered one of the most serious, being almost always included in the category of homicides. Whether it is Holy Scripture, the Church Fathers or Councils, penitential manuals or medieval Western or Eastern jurists and theologians, popes or the canonical legislation of the Catholic or Orthodox Church, the value of human life from the first moment of its conception is what it must be defended, and the crime of its destruction must be punished. We conclude with the words of Saint Teresa of Calcutta, words also quoted by Saint John Paul II: “If a mother can kill her own child, what could stop you from killing each other. The only one who has the right to take life is the One who created it. No one else has that right, no mother, no father, no doctor, no agency, no conference, no government”¹⁵⁶.

¹⁵³ *Compendiu de dreptul canonic al santei sobornicești și apostolicești Biserici, compus de Andreiu baron de Șaguna*, Sibiu 1913, 75

¹⁵⁴ N. MILAȘ, *Canoanele Bisericii Ortodoxe însoțite de comentarii*, I/2, tr. U. Kovincici, N. Popovici, Arad 1932, 472.

¹⁵⁵ N. MILAȘ, *Canoanele Bisericii Ortodoxe însoțite de comentarii*, II/1, Arad 1934, 24.

¹⁵⁶ Cf. JOHN PAUL II, *Speech addressed to the cardinals and the Roman Curia* (December 22, 1994), no. 1: AAS 10 (October 9, 1995) 839-840.

DER ANSATZ VON JOSEPH RATZINGER

*Leon PIŠTA**

Zusammenfassung: In diesem Artikel wird es den mariologischen Ansatz von Joseph Ratzinger analysiert. Dessen erster Teil skizziert drei methodische Aspekte, die für eine redliche Auslegung der Enzyklika „Redemptoris Mater“ von Papst Johannes Paul II. wichtig sind. Nach der Skizzierung dieser drei methodischen Aspekte werden drei inhaltliche Schwerpunkte der Enzyklika präsentiert. Der zweite Teil des Artikels analysiert das Buch „Die Tochter Zion“ von Joseph Ratzinger. Hier werden die drei großen Mariendogmen ausgelegt, und zwar: Maria, Jungfrau und Gottesmutter, ihr Freisein von der Erbsünde und die Aufnahme des Leibes und der Seele Marias in die himmlische Herrlichkeit.

Schlüsselwörter: Mariologie, Joseph Ratzinger, Johannes Paul II, Liturgie, Glauben, Frau.

Im liturgischen Leben der Gemeinde und in der ikonographischen Gestaltung der Kirchenräume begegnen katholische Christen und Christinnen auf vielfältige Weise immer wieder jener Frauengestalt, die in allen Jahrhunderten christlicher Zeitrechnung Anlass auch zu theologischer Reflexion bot: der Mutter Jesu, Maria von Nazareth.

Maria ist, laut der dogmatischer Konstitution *Lumen Gentium* Nr. 61, die selige Jungfrau, „die von Ewigkeit her zusammen mit der Menschwerdung des göttlichen Wortes als Mutter Gottes vorherbestimmt wurde.“ Sie war hier auf Erden „die erhabene Mutter des göttlichen Erlösers, in einzigartiger Weise vor anderen seine großmütige Gefährtin und die demütige Magd des Herrn. Indem sie Christus empfang, gebär und nährte, im Tempel dem Vater darstellte und mit ihrem am Kreuz sterbenden Sohn litt, hat sie beim Werk des Erlösers ... mitgewirkt zur Wiederherstellung des übernatürlichen Lebens der Seelen.“¹

Die Lehre über die Gottesmutter hat sich im Lauf der Geschichte durch viele Ansätze mehrerer großer Theologen entwickelt. Die geschichtliche Gestalt mariologischer Aussagen hat jeweils Bezug zur gesamtheologischen Situation der Zeit. Zwei Titanen der römisch-katholischen Theologie, die in der Gegenwart zur Entwicklung der Mariologie wesentlich beigetragen haben, sind Joseph Ratzinger, Papst Emeritus Benedikt XVI., und der emeritierte Professor für Dogmatik Gisbert Greshake.

Wenn es um „Kirche im Ursprung“ geht, kommt, Maria, der Gottesmutter, die wichtigste Rolle zu. Maria hat durch ihr freies „Fiat“, aus vollem Vertrauen auf Gott, an der Durchführung von Gottes Heilsplan teilgenommen

und mitgewirkt. Durch ihre Mitwirkung an Gottes Heilsplan hat Maria, in vollkommener Freiheit, die Menschwerdung des Gottessohnes und gleichzeitig die Entstehung der Kirche ermöglicht.

1. Das Zeichen der Frau. Die Enzyklika „Redemptoris Mater“.

1.1. Methodische Aspekte

In methodischer Hinsicht sind bei Joseph Ratzinger drei Punkte wichtig:

- ▶ die Bibel als Ganzheit lesen;
- ▶ die weibliche Linie in der Bibel;
- ▶ die geschichtlich-dynamische Seite der Mariologie.

a) Die Bibel als Ganzheit lesen.

Die marianische Enzyklika „Redemptoris Mater“ von Papst Johannes Paul II. setzt die historisch- kritische Auslegung der Bibel voraus. Grundvoraussetzung theologischer Auslegung ist die Überzeugung, dass die Hl. Schrift ein Buch ist, das trotz aller Spannungen eine wirkliche neue innere Einheit bildet, obwohl es von mehreren menschlichen Autoren und über einen längeren Zeitraum hinweg geschrieben ist¹.

Diese Voraussetzung basiert auf der Überzeugung, dass die Hl. Schrift doch das Werk eines einzigen Autors ist, welches eine menschliche und eine göttliche Facette hat. Die menschliche Facette besteht in der Geschichte des Volkes Gottes, das in allen Wendungen seiner Geschichte doch seine innere Identität mit sich selbst nicht verloren hat. Wenn es um die göttliche Facette geht, schreibt Ratzinger, dass die innere Identität des Volkes Gottes auf der Führung durch den einen Geist beruht. Der Kern dieser Identität konstituiert sich nicht einfach aus Wörtern mehrerer Menschen, sondern aus göttlichen Worten, die durch Menschen gesprochen sind². Wichtig für die theologische Auslegung der Schrift ist nicht nur die neben- und teils sogar gegeneinanderstehenden Autoren zu hören, sondern auch die eine Stimme des Ganzen zu suchen, die innere Identität, die dieses Ganze trägt und verbindet. Insofern ist die methodische Form, um die es hier geht, zuletzt sehr einfach: Die Hl. Schrift wird durch die Hl. Schrift ausgelegt. Die Hl. Schrift legt sich selbst aus³. Die Enzyklika „Redemptoris Mater“ von Papst Johannes Paul II. sucht die biblischen Texte nicht in ihren einzelnen Momenten

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¹ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, Verlag Johannes, Freiburg 2010, 32.

² Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 33.

³ Vgl. ebd.

von außen zu erklären, sondern sie versucht, sie ganz in ihrem eigenen Vielklang zu hören und sie so aus ihren inneren Zuordnungen her zu begreifen⁴.

Die Hl. Schrift als Einheit lesen bedeutet auch sie als Gegenwart zu lesen. Das heißt es ist nicht wichtig zu suchen, was gewesen ist und was einmal gedacht wurde, sondern wichtig ist zu suchen, was wahr ist. Die Wahrheitsfrage „Was ist Wahrheit?“⁵ hat nur Sinn, wenn die Bibel selbst Gegenwart ist, wenn aus ihr ein gegenwärtiges Subjekt spricht und wenn dieses Subjekt sich dadurch von allen anderen lebenden Subjekten der Geschichte abhebt, dass es in der Berührung mit der Wahrheit steht und diese daher in Menschenrede kundgeben kann⁶.

b) Die weibliche Linie in der Bibel

Im letzten Abschnitt wurde die Wichtigkeit des Lesens der Bibel als Einheit betont. Wenn man die Bibel als ganze liest, dann beobachtet man, dass es im Alten Testament neben der Linie von Adam zu den Stammvätern und zum Gottesknecht auch die Linie von Eva über die Stammmütter zu Persönlichkeiten wie Debora, Esther, Ruth und schließlich zur Sophia gibt. Die Entwicklung der männlichen und weiblichen Linien kann man theologisch nicht einander angleichen. Aber wie von Christus her die adamische Linie ihren Sinn erhält, so wird im Licht der Gestalt Marias und in der Stellung der Ecclesia die Bedeutung der weiblichen Linie in ihrem unteilbaren Ineinander mit dem christologischen Geheimnis deutlich⁷.

Theologisch gesehen wurde in der Neuzeit die weibliche Linie in der Bibel unterschätzt. Das Verschwinden Marias und der Ecclesia im Hauptstrom neuzeitlicher Theologie weist auf die Unfähigkeit der Theologen hin, Bibel in ihrer Ganzheit zu lesen. Ratzinger weist darauf hin, dass die Enzyklika „*Redemptoris Mater*“ uns anleitet, die weibliche Linie in der Bibel mit ihrem eigenen Heilsgehalt neu zu entdecken und zu erlernen. Gleichzeitig betont Ratzinger, dass die Christologie das Weibliche in der Bibel nicht ausschaltet, aber auch, dass die weibliche Linie die Christologie nicht mindert, sondern dass nur in ihrem rechten Zueinander die Wahrheit über Gott und über uns selbst zum Vorschein kommt⁸.

⁴ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 34.

⁵ Es geht um die bekannte Frage, die Pilatus während des Urteils Christi gestellt hat.

⁶ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 34.

⁷ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 37.

⁸ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 36-38.

c) Die geschichtlich-dynamische Seite der Mariologie

Für das mariologische Denken im 19. und frühen 20. Jahrhundert war es wichtig, die Privilegien der Gottesmutter zu erklären. Im Vordergrund steht der Streit um die Titel „Mediatrix“ und „Coredemptrix“⁹. In der Enzyklika „Redemptoris Mater“ kommt der Titel „Miterlöserin“ gar nicht vor und der Titel „Mittlerin“ nur ganz selten. Hier hat das Wort „Vermittlung“ mehr Gewicht¹⁰. Für Papst Johannes Paul II. war es wichtig, dass wir die geschichtliche Dynamik des Heils verstehen. Die Gottesmutter ist weder in der Vergangenheit noch allein in der Höhe des Himmels. Sie ist und bleibt anwesend und wirksam in der Gegenwart. Maria geht uns voraus; sie handelt, indem sie den Weg nach vorne weist. Nur so wird sichtbar, wer sie ist und wer wir sind. Das gelingt jedoch nur, wenn wir uns auf den dynamischen Sinn ihrer Gestalt einlassen¹¹.

1.2. Drei inhaltliche Schwerpunkte

In Ratzingers Meditation über die Enzyklika „Redemptoris Mater“ sind vier wichtige Schwerpunkte zum Inhalt der Enzyklika zu finden:

- ▶ Maria, die Glaubende;
- ▶ Das Zeichen der Frau;
- ▶ Die Mittlerschaft Marias;
- ▶ Die Sinngebung des Marianischen Jahres.

Ich werde mich nur mit den ersten drei Aspekten beschäftigen, weil ich die Sinngebung des Marianischen Jahres nicht relevant für mein Thema finde.

1.1.1. Maria, die Glaubende

Der Glaube Marias ist der zentrale Aspekt der Enzyklika „Redemptoris Mater“. „Selig, die du geglaubt hast“ – dieser Zuruf Elisabeths an Maria (Lk 1,45) wird zum Schlüsselwort der Mariologie¹². Die Enzyklika ist eine Katechese über den Glauben und über das Grundverhältnis des Menschen zu Gott. Die Haltung Marias ist in Verbindung mit der Gestalt Abrahams zu sehen:

⁹ „Mittlerin“ und „Miterlöserin“.

¹⁰ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 38.

¹¹ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 39.

¹² Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 41.

Deshalb kann auch der Glaube Marias mit dem Abrahams verglichen werden, den der Apostel „unseren Vater im Glauben“ nennt (Röm 4,12). In der Heilsordnung der Offenbarung Gottes bildet der Glaube Abrahams den Anfang des Alten Bundes. Der Glaube Marias bei der Verkündigung eröffnet den Neuen Bund. Wie Abraham „gegen alle Hoffnung voll Hoffnung geglaubt hat, dass er der Vater vieler Völker werde“ (Röm 4,18), so hat Maria, nachdem sie im Augenblick der Verkündigung ihre Jungfräulichkeit bekannt hatte („Wie soll das geschehen, da ich keinen Mann erkenne?“) geglaubt, dass sie durch die Kraft des Höchsten, durch den Heiligen Geist und nach der Offenbarung des Engels die Mutter des Sohnes Gottes werden würde: „Deshalb wird auch das Kind heilig und Sohn Gottes genannt werden“ (Lk 1,35)¹³.

Glaube ist bei Maria wie bei Abraham ein Gott-Trauen und -Gehorchen, auch auf einem dunklen Weg. Er ist ein Sich-fallen-Lassen, Sich-Freigeben und Sich-Überantworten an die Wahrheit – an Gott. So weist der Glaube aus dem Helldunkel von Gottes unerforschlichen Wegen zur Gleichgestaltung mit ihm. Maria stellt ihr ganzes Selbst für Gottes Gegenwart zur Verfügung, als sie ihr Ja vor dem Erzengel Gabriel sprach. Durch diesen Akt des Glaubens fällt der Wille Marias mit dem Willen des Sohnes zusammen¹⁴.

In der Enzyklika wird auch der Kreuzcharakter des Glaubens betont, der sich für Maria zuerst in der Begegnung mit Simeon zeigt (Lk 2,25-33). Papst Johannes Paul II. unterstreicht das Wort des Evangelisten: „Sie verstanden nicht, was er damit sagen wollte“. Das Geheimnis Gottes bleibt Geheimnis und Maria kommt nur durch den Glauben mit dem Geheimnis Gottes in Berührung. Aber gerade so bleibt sie wirklich in Kontakt mit dieser neuen Selbstoffenbarung Gottes, die Fleischwerdung ist¹⁵.

1.1.2. Das Zeichen der Frau

Im Buch der Offenbarung ist die Rede von einem bestimmten Zeitpunkt in unserer Geschichte, an dem das Miteinander von Himmel und Erde entstanden ist. Das Zeichen der Frau ist im zwölften Kapitel der Offenbarung zu finden. Dieser biblische Text verweist auf die biblische Schilderung vom Anfang der Geschichte: „Feindschaft will ich setzen zwischen dich und die Frau, zwischen deinen Nachwuchs und ihren Nachwuchs. Er trifft dich am Kopf, und du triffst ihn an der Ferse (Gen 3,15)“.

¹³ JOHANNES PAUL II, Enzyklika *Redemptoris Mater* (1987), Nr. 14, URL: http://w2.vatican.va/content/john-paul-ii/de/encyclicals/documents/hf_jp-ii_enc_25031987_redemptoris-mater.html (Stand: 24.10.2017).

¹⁴ Vgl. ebd.

¹⁵ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 43.

Die Väter haben in diesem Strafwort eine erste Verheißung des Erlösers gesehen – einen Hinweis auf den Nachkommen, der der Schlange den Kopf zertritt. Wichtig war für die Väter, dass schon in diesem ersten Beginn das christologische und das marianische Thema untrennbar verflochten sind. Die erste, im Halbdunkel stehende und erst vom späteren Licht her überhaupt zu entziffernde Verheißung Christi ist eine Verheißung an die Frau, durch die Frau¹⁶.

In der Offenbarung treten die gleichen drei Akteure, die schon im Buch Genesis eine Rolle gespielt haben, auf: die Frau, der Nachkomme und die Schlange. Das Drama der Geschichte ist in seine Entscheidungsstunde getreten. Aber diese Entscheidung ist nun dadurch vorweg schon gefallen in dem, dass Maria in Nazareth durch die Worte des Erzengels Gabriel „Sei gegrüßt, du Gnadenvolle“ (Lk 1,28) die endgültig gesegnete Frau wird¹⁷. Um diesen Sinn zu verdeutlichen, knüpft der Papst an die Einleitungsformel des Epheserbriefes an, der mit ähnlichen Worten eingeleitet ist¹⁸:

Gepriesen sei der Gott und Vater unseres Herrn Jesus Christus: Er hat uns mit allem Segen seines Geistes gesegnet durch unsere Gemeinschaft mit Christus im Himmel. Denn in ihm hat er uns erwählt vor der Erschaffung der Welt... Er hat uns aus Liebe im Voraus dazu bestimmt, seine Söhne zu werden durch Jesus Christus... zum Lob seiner göttlichen Gnade (Eph 1,3-6).

Das Wort „Gnadenvolle“ verweist auf jene Endgültigkeit des Segens, von der im Epheserbrief die Rede ist. Von dort wird auch sichtbar, dass der „Sohn“ das Drama der Geschichte definitiv zugunsten des Segens entschieden hat. Darum ist Maria, die ihn geboren hat, wirklich „voll der Gnade“ – sie wird zum Zeichen in der Geschichte. Das Zeichen der Frau ist zum Zeichen der Hoffnung geworden. Sie ist Wegweiser der Hoffnung¹⁹.

Papst Johannes Paul II. stellt das „Zeichen der Frau“ in unserer Geschichtsstunde als das wesentliche „Zeichen der Zeit“ hin: Dieses Zeichen führt uns mit Hoffnung auf den Weg zu Christus²⁰.

1.1.3. Mittlerschaft Marias

Der Papst unterstreicht in seiner Enzyklika sehr stark die Mittlerschaft Jesu Christi, um die Mittlerschaft Marias zu beschreiben. Aber diese Ein-

¹⁶ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 44.

¹⁷ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 45.

¹⁸ Vgl. JOHANNES PAUL II, Enzyklika *Redemptoris Mater*, Nr. 7-11.

¹⁹ Vgl. Joseph RATZINGER/BENEDIKT XVI – Hans Urs VON BALTHASAR, *Maria – Kirche im Ursprung*, 45.

²⁰ Vgl. ebd.

zigkeit ist inklusiv und ermöglicht Formen der Teilhabe, d. h. diese Einzigkeit Christi löscht das Füreinander und Miteinander der Menschen vor Gott nicht aus²¹. Niemand kann von sich aus, ohne die Mittlerschaft Christi, die Brücke zu Gott schlagen. Von diesen Gedanken ausgehend entwickelt der Papst die Mittlerschaft Marias.

Marias Mittlerschaft beruht auf der Teilhabe am Mittleramt Christi, der ein Dienst in Unterordnung ist²². Es stellt sich die Frage: Worin unterscheidet sich Marias Mittlerschaft von der Mittlerschaft anderer Menschen? Der Papst gibt eine Antwort auf diese Frage und sagt, dass Marias Mittlerschaft doch „außerordentlich“ ist, weil sie über die in der Gemeinschaft der Heiligen grundsätzlich jedem Menschen mögliche Weise der Vermittlung in einer einzigartigen Weise hinausreicht²³.

Eine erste Anschauung ihrer Mittlerschaft sieht der Papst im Wunder von Kana, bei dem das Dazwischentreten Marias bewirkt, dass Christus seine künftige Stunde im Zeichen jetzt schon vorwegnimmt – wie es immer wieder in den Sakramenten geschieht²⁴. Die Grundthese des Papstes lautet: Das Einzigartige an der Mittlerschaft Marias ist, dass sie mütterliche Vermittlung ist, dem immer neuen Geborenwerden Christi in der Welt zugeordnet. Sie hält die frauliche Dimension im Heilsgeschehen gegenwärtig, die in ihr ihre bleibende Mitte hat. Hier nimmt der Papst Bezug auf den Galaterbrief: „Ich leide von neuem Geburtswehen um euch, bis Christus in euch Gestalt annimmt“ (Gal 4,19). Leben entsteht nicht durch Machen, sondern durch Geborenwerden und verlangt daher Geburtswehen. Das „mütterliche Bewusstsein der Urkirche“, auf das der Papst hier hinweist, geht uns gerade heute an²⁵.

Der Evangelist Lukas zeigt, dass Marias Mutterschaft nicht nur einmaliges biologisches Geschehen ist, sondern das sie Mutter mit ihrer ganzen Person war und ist und daher auch bleibt²⁶. Dies ist an Pfingsten, im Augenblick der Geburt der Kirche aus dem Heiligen Geist, konkret geworden: Maria ist inmitten der betenden Gemeinde, die durch das Kommen des Geistes zur Kirche wird. Die Entsprechung zwischen der Inkarnation Jesu in Nazareth aus der Kraft des Geistes und der Geburt der Kirche an

²¹ Vgl. JOSEPH RATZINGER/BENEDIKT XVI – HANS URS VON BALTHASAR, *Maria – Kirche im Ursprung*, 46.

²² Vgl. JOHANNES PAUL II, Enzyklika *Redemptoris Mater*, Nr. 21.

²³ Vgl. JOSEPH RATZINGER/BENEDIKT XVI – HANS URS VON BALTHASAR, *Maria – Kirche im Ursprung*, 47.

²⁴ Vgl. ebd.

²⁵ Vgl. JOHANNES PAUL II, Enzyklika *Redemptoris Mater*, Nr. 43.

²⁶ Vgl. JOSEPH RATZINGER/BENEDIKT XVI – HANS URS VON BALTHASAR, *Maria – Kirche im Ursprung*, 49.

Pfingsten ist unübersehbar. Maria ist die Person, die diese beiden Momente vereinigt²⁷.

Der Papst sieht eine neue Seite der Mutterschaft Marias auch in der Kreuzigungsszene – bzw. in den Worten Jesu an seine Mutter und an den Lieblingsjünger: „*Frau, siehe, deinen Sohn!*“ (Joh 19,26). und „*Siehe, deine Mutter!*“ (Joh 19,27). Hier bekommt Maria einen besonderen Auftrag in der Kirche und dadurch wird sichtbar, dass die Mutterschaft Marias ein Geschenk ist, das Christus persönlich jedem Menschen macht²⁸.

2. Die Tochter Zion. Der Marienglaube der Kirche.

Ein weiterer Aspekt, den Joseph Ratzinger in der mariologischen Theologie entwickelt hat, ist der Marienglaube der Kirche.

Ratzinger behauptet in seiner Meditation über „Maria – Die Tochter Zion“, dass es sehr wichtig ist, die Einheit von Altem und Neuem Testament zu pflegen. Nur dadurch können die Schöpfungs- und die Gnadenlehre intakt bleiben. Nur durch das Licht der alt- und neutestamentlichen Texte können die drei großen Mariendogmen vernünftig verstanden werden²⁹. Die drei großen Mariendogmen sind: Maria – Jungfrau und Mutter Gottes, Marias Sündlosigkeit (*Immaculata conceptio*) und Maria Himmelfahrt. Im Weiteren möchte ich zusammenfassen, was Joseph Ratzinger über diese drei großen Mariendogmen beteuert hat.

2.1. Das marianische Urdogma: Jungfrau und Mutter

Maria erscheint in allen neutestamentlichen Texten, besonders in den Evangelien, als Mutter Jesu von Nazareth. Die Kindheitsgeschichten heben ausdrücklich hervor, dass zwar Josef nicht sein biologischer Vater, dass aber Marias Mutterschaft – abgesehen vom Akt der Empfängnis – voll und ganz regulär gewesen ist³⁰.

Wie hat sich der Weg zum Bekenntnis von der jungfräulichen Mutterschaft Marias vollzogen? Um diese Frage zu beantworten, versucht Joseph Ratzinger die Hauptstadien im Wachstum der entsprechenden Überlieferung zu überblicken.

²⁷ Vgl. JOHANNES PAUL II, Enzyklika *Redemptoris Mater*, Nr. 24.

²⁸ Vgl. JOHANNES PAUL II, Enzyklika *Redemptoris Mater*, Nr. 23.

²⁹ Vgl. Joseph Ratzinger, *Die Tochter Zion*, Verlag Johannes, Einsiedeln 1977, 29-31.

³⁰ Vgl. Wolfgang BEINERT – Heinrich PETRI [Hgrs.], *Handbuch der Marienkunde*, Band I, Verlag Friedrich Pustet, Regensburg 1996, 309.

2.1.1. Die neutestamentlichen Texte

Für Paulus spielte die Geburt Jesu theologisch noch keine Rolle. Trotzdem gibt es eine Stelle im Galaterbrief Kap. 4, wo Paulus sich auf die Vorfahren Jesu bezieht, auf die zwei Söhne Abrahams, auf Isaak und Ismael, aber diese Stelle ist eher ein fernes Präludium für die Kindheitsgeschichten, die man bei Matthäus und Lukas findet³¹. Paulus bezieht sich zwar auf die Verheißungslinie, die mit Abraham anfängt, entwickelt aber seine Theologie mit Blick auf die Kreuz- und Auferstehungsereignisse. Matthäus und Lukas haben sich mehr mit dieser Linie beschäftigt.

Der Stammbaum Jesu hat eine doppelte Funktion: Erstens wird die Herkunft Jesu geschildert und zweitens wird das Wesen Jesu gedeutet. Der Matthäus-Stammbaum erweist Jesus als Abrahams Sohn und als den wahren David, in dem das Zeichen der Hoffnung erfüllt ist. Lukas führt den Weg Jesu zurück bis Adam, „der von Gott abstammt“, und will dadurch zeigen, dass in Jesus nicht nur die Königshoffnung Israels erfüllt ist, sondern die Fragen nach dem Wesen des Menschen überhaupt, der irrend und tastend auf der Suche nach sich selbst ist³².

Ratzinger durchläuft einige Texte im Lukasevangelium, Texte, die wichtig für das Gesamtverständnis der Mariengestalt sind. Wichtig ist zunächst die Ortsbestimmung, die Lukas in gewolltem Gegenüber zur Vorgeschichte Johannes des Täufers wiedergibt. Die Geburt des Täufers wird im Tempel einem Priester verkündet. Die Verkündigung des Sohnes Gottes erfolgt in einem unbedeutenden Ort im Galiläa an eine Frau. Ratzinger versteht daraus, dass Gott einen neuen Weg beginnt, in dessen Mitte nicht mehr der Tempel, sondern die Einfachheit Jesu Christi steht. Er ist nun der wahre Tempel, das Zelt der Begegnung³³. Der Gruß des Erzengels Gabriel an Maria (Lk 1,28-32) entspricht dem Text aus Zef 3,14-17: Maria ist die dort angeredete Tochter Zion, der zugerufen wird „Freue dich“; der gesagt wird, dass der Herr zu ihr kommt; der die Furcht genommen wird, weil der Herr in ihrer Mitte ist, sie zu retten. In der Anrede des Engels kommt das tragende Motiv der lukanischen Darstellung der Mariengestalt zum Vorschein: Sie ist in Person das wahre Zion, auf das sich die Hoffnungen in allen Verwüstungen der Geschichte gerichtet haben. Sie ist das wahre Israel, in dem Alter und Neuer Bund, Israel und die Kirche eins sind. Sie ist das „Volk Gottes“, das Frucht trägt aus Gottes gnädiger Macht³⁴.

³¹ Vgl. Joseph RATZINGER, *Die Tochter Zion*, Verlag Johannes, Einsiedeln 1977, 36-37.

³² Vgl. Joseph RATZINGER, *Die Tochter Zion*, 38-39.

³³ Vgl. Joseph RATZINGER, *Die Tochter Zion*, 40.

³⁴ Vgl. Joseph RATZINGER, *Die Tochter Zion*, 41.

Bei den Worten des Erzengels ist noch ein wichtiger Satz zu bemerken: „Der Heilige Geist wird über dich kommen und die Kraft des Höchsten wird dich überschatten.“ (Lk 1,35) Hier gibt es zwei wichtige Bilder, die aus verschiedenen Überlieferungssträngen stammen: Das erste Bild bezieht sich auf die Schöpfungsgeschichte (Gen 1,2) und bezeichnet eine neue Schöpfung: Der Gott, der als „Schöpfergeist“ Grund alles Seienden ist, eröffnet hier Neuschöpfung aus und in der Alten; das zweite Bild – „die Kraft des Höchsten wird dich überschatten“ – verweist auf die Wolke, die den Tempel überschattet und damit die Gegenwart Gottes anzeigt. Maria erscheint als das heilige Zelt, über dem Gottes verborgene Gegenwart wirksam wird³⁵.

2.1.2. Der theologische Sinn

Ratzinger findet es wichtig, dass man zunächst nach dem theologischen Sinn dieser neutestamentlichen Texte fragt, um das Faktum der Jungfräulichkeit Marias in ihrer Mutterschaft bestimmen zu können.

Die Menschwerdung Jesu ist ein neuer Einsatz Gottes in der Geschichte, der mehr als die Neuheit ist, die jedem einzelnen Menschen zukommt. Dadurch beginnt Gott selbst etwas Neues; er beginnt eine neue Schöpfung. Hier ist wahrhaft „Adam“, der noch einmal und in höherem Sinn als ehemals „von Gott“ kommt (vgl. Lk 3,3-8). Nach Jes 54,1 kann solche Geburt nur der „Unfruchtbaren“ widerfahren: Was Jesaja damals verheißt hat, ist für Lukas in Maria konkrete Wirklichkeit geworden – das machtlose Israel, menschlich verstoßen und unfruchtbar, hat Frucht getragen. In Jesus beginnt eine neue Menschheit und in ihm hat Gott inmitten der unfruchtbaren und hoffnungslosen Menschheit einen neuen Anfang gesetzt, der nicht Ergebnis ihrer Geschichte, sondern Geschenk von oben ist. So wird Maria, die Unfruchtbar-Gesegnete, zum Zeichen der Gnade – zum Zeichen dafür, was das wahrhaft Fruchtbare und Rettende ist: die bereite Offenheit, die sich dem Willen Gottes übereignet³⁶.

Ratzinger bringt in dieser Diskussion eine christologische Aussage von H. Schürmann an:

Weil das Kind in seinem Ursprung gottgewirkt ist, wird es durch und durch „heilig“ sein. Nicht wird Heiliger Geist es wie Johannes „vom Mutterschoße an“ (1,15) erfüllen, sondern Gottes Pneuma wird ihm schöpferisch lebenspendend das Dasein geben, darum sein innerstes Wesen bestimmen und es „heilig“ machen³⁷.

³⁵ Vgl. Joseph RATZINGER, *Die Tochter Zion*, 42.

³⁶ Vgl. Joseph RATZINGER, *Die Tochter Zion*, 46-47.

³⁷ Heinz SCHÜRMANN, *Das Lukasevangelium I*, Verlag Herder, Freiburg 1970, 53.

Gerade das Gegenüber zu Johannes, der, in enger Verwandtschaft zu dem vom Mutterschoß an gerufenen Jeremia (Lk 1,4), den Gottesmann des Alten Bundes verkörpert, lässt die Aussage deutlich werden, die Lukas vorlegen will: Hier ist mehr als ein Prophet, hier ist der „Sohn“³⁸.

Weiter bezieht sich Ratzinger auf die Begründung von Hans Urs von Balthasar, der diesen Zusammenhang aus der Logik des Menschseins und aus der Logik der Inkarnation tiefer begründet hat. Er sagt, dass der Josephs Stammbaum auf die rechtliche Stellung Jesu in der Gesellschaft seiner Zeit, auf David und so auf die Messianität verweist. Die Geburt aus der Jungfrau aber verweist auf die Sohnschaft, verweist auf den Vater und damit auf das, was für Jesus unendlich wesentlicher war als die Messianität, die er insofern hervorhebt, als sie ihm unter seinen Zeitgenossen und in ihrer Auslegung des Alten Testaments begegnete. Die jungfräuliche Geburt ist der notwendige Ursprung dessen, der der Sohn ist und der der messianischen Hoffnung einen bleibenden und über Israel hinausweisenden Sinn gibt. Bei dieser „neuen Geburt“, die zugleich die Preisgabe der irdischen Fruchtbarkeit, die Preisgabe der Selbstverfügung und Selbstplanung des Lebens einschließt, ist Maria als Mutter wahrhaft „Gottesgebälerin“, nicht nur Organ eines zufälligen körperlichen Geschehens³⁹.

2.2. *Das Freisein von der Sünde Adams*

Joseph Ratzinger gibt eine wichtige Antwort auf den Einwand gegenüber dem Dogma Immaculata Conceptio. Das Immaculata-Dogma behauptet, dass Marias Bewahrung vor der Erbsünde ein Faktum sei. Fakten können nur aufgrund von Offenbarung gewonnen, nicht aber sich aus Spekulationen ableiten lassen. Der Begriff Faktum, auf Erbsünde bezogen, ist in seiner positivistischen Härte ohnedies unanwendbar. Die Erbsünde ist im positivistischen Sinn kein Faktum, wie z. B. das Faktum, dass Karol Józef Wojtyła am 18. Mai 1978 in Polen geboren ist. Die Erbsünde ist nur insofern eine Realität, als man um sie aus der Typologie weiß: Der grundlegende Text Röm 5 ist eine typologische Auslegung des Alten Testaments. Erbsünde ist nämlich erkennbar im Typus Adam und in seiner Wiederkehr an den Wendepunkten in der Geschichte; ihre Behauptung beruht auf der typologischen Identifikation jedes einzelnen Menschen mit dem Menschen am Anfang. Die Erbsünde wird also durch eine typologische Schriftdeutung, und somit auf theologischem Weg erkannt. Dies verkannt zu haben, war vielleicht der Hauptfehler der neuscholastischen Erbsündenlehre.

³⁸ Vgl. Joseph RATZINGER, *Die Tochter Zion*, 47-48.

³⁹ Vgl. Joseph RATZINGER, *Die Tochter Zion*, 48-50.

Ebenso ist klar, dass auch die Freiheit von der Erbsünde nicht als Faktum mitgeteilt ist, sondern ebenso theologisch erkannt wird⁴⁰.

Es stellt sich die Frage: Wie wird in der Typologie Marias Freiheit von der Erbsünde begründet? Um diese Frage zu beantworten, bezieht sich Ratzinger auf den Epheserbrief. Im Epheserbrief schildert Paulus das neue Israel, die Braut, mit den Prädikaten „heilig“, „fleckelos“, „leuchtend schön“, „ohne Flecken oder Runzel oder dergleichen“⁴¹. In der Hl. Schrift und in den Schriften der heiligen Kirchenväter gibt es schon eine Immaculata-Lehre, freilich als Lehre von der Ecclesia immaculata. Die Immaculata-Lehre wird hier, wie die ganze spätere Mariologie, zuerst als Ekklesiologie vorweggenommen und so wurde das Bild der Jungfrau-Mutter Kirche sekundär auf Maria übertragen, und nicht umgekehrt. Wenn nun das Immaculata-Dogma besagt, dass das alte Israel durch die konkrete Gestalt Marias zum neuen Israel wird, bedeutet das, dass jene Wiedergeburt des alten Israel zum Neuen, von dem der Epheserbrief spricht, in Maria seinen konkreten Vollzugsort hat. Dieses, durch Maria neue-gewordene Israel, ist nicht nur eine Idee, sondern Person, weil Gott nicht durch Begriffe wirkt, sondern durch Personen. Die Person Marias ist der Anfang und die personale Konkretetheit der Kirche⁴².

2.3. Die leibliche Aufnahme in die himmlische Herrlichkeit

Seit dem 6. Jahrhundert macht sich die Theologie über das endgültige Schicksal der Herrenmutter Gedanken, die zunehmend in die Annahme einer Himmelaufnahme münden. Papst Pius XII. nahm die feierliche Dogmatisierung am Allerheiligentag 1950 auf dem Petersplatz in Rom vor, nachdem er ähnlich wie sein Vorgänger Pius XI. die Bischöfe und theologischen Fakultäten des katholischen Erdkreises befragt hatte⁴³. Der entscheidende Wortlaut der Apostolischen Konstitution „*Munificentissimus Deus*“ lautet:

Wir verkünden, erklären und definieren: Es ist eine von Gott geoffenbarte Glaubenswahrheit, dass die unbefleckte, immer jungfräuliche Gottesmutter Maria nach Vollendung ihres irdischen Lebenslaufes mit Leib und Seele zur himmlischen Herrlichkeit aufgenommen ist⁴⁴.

Auch gegen dieses Dogma gibt es mehrere theologische Einwände. Noch stärker als im Fall der Immaculata-Aussage lautet hier der Einwand, dass

⁴⁰ Vgl. Joseph RATZINGER, *Die Tochter Zion*, 65-66.

⁴¹ Vgl. Eph 5,27.

⁴² Vgl. Joseph RATZINGER, *Die Tochter Zion*, 67.

⁴³ Vgl. Wolfgang BEINERT – Heinrich PETRI [Hgrs.], *Handbuch der Marienkunde*, 338.

⁴⁴ DH 3903.

eine Auferweckung ein Faktum ist, das nicht erdacht werden kann, sondern mitgeteilt werden muss. Diese Assumptio-Aussage kann zu einem Missverständnis führen, wenn sie als ein historisches Faktum, und historische überliefert, betrachtet wird. Der entscheidende Unterschied ist die Auferstehung Christi, die kein historisches Faktum gewöhnlicher Art darstellt; für sie ist aber doch wesentlich, dass sie in die Geschichte hineinreicht und sich in der Historie kundgibt⁴⁵.

Der Text des Dogmas von 1950 spricht bei Maria nicht von „resurrectio“, sondern von „assumptio ad caelestem gloriam“. Es ist nicht die Rede von der „Auferstehung“, sondern von der „Aufnahme“ des Leibes und der Seele nach in den Himmel. Unter diesen Umständen kann man sagen, dass der Text der dogmatischen Bulle von 1950 den Inhalt dieses Glaubenssatzes deutlich als theologische Aussage definiert, und nicht als historische Aussage. Um besser zu verstehen, was dies bedeutet, empfiehlt Ratzinger, dass man auf die Entwicklungsgeschichte des Dogmas wie auch auf die bestimmenden Faktoren seiner Gestaltwerdung eingeht. Betrachtet man die Entwicklungsgeschichte des Dogmas, zeigt sich, dass der entscheidende Impuls zu dieser Aussage aus der Verehrung für Maria kommt. Das ist auch im Dogmatisierungstext zu erkennen, wenn dort gesagt wird, das Dogma werde erlassen zu Ehren des Sohnes, zur Verherrlichung seiner Mutter und zur Freude der ganzen Kirche. Es handelt sich also bei der Dogmatisierung von 1950 um einen Akt der Verehrung Marias, der in der Gestalt des Dogmas eine höchst mögliche Preisung der Mutter sein will. Die inhaltliche Aussage ist ganz auf ihre Verehrung hingeordnet. Gleichzeitig weist die Verehrung umgekehrt auf diesen Inhalt und findet hier ihren stärksten Grund: Die Verehrung bezieht sich auf die, die wirklich jenseits des Todes am Ziele angekommen ist. Wenn das alles so stimmt, kann man sagen, dass die Assumptio-Formel verdeutlicht, was die innere Voraussetzung der Verehrung ist. Anders gesagt, ist das Assumptio-Dogma die oberste Stufe der Kanonisation, in der der Gottesmutter das Prädikat „Heilig“ ganz und ungeteilt in der eschatologischen Vollendung zuerkannt wird⁴⁶.

In einer solchen Marienverehrung spiegelt sich die Einheit der Testamente wieder: Der Gott Israels wird durch Menschen bekannt, in deren Leben er sichtbar und gegenwärtig wird. Durch diese Menschen hat Gott selbst einen Namen, durch sie und in ihnen wird er zugänglich. Gott heißt der Gott Abrahams, Isaaks und Jakobs, D.h. Gott nennen, bedeutet die Väter nennen. Für den Glauben Israels ist es wichtig, dass Gott Gedäch-

⁴⁵ Vgl. Joseph RATZINGER, *Die Tochter Zion*, 72.

⁴⁶ Vgl. Joseph RATZINGER, *Die Tochter Zion*, 73-74.

nis hat und Gedächtnis ist. Die Preisung Marias fügt sich in das Gottesbild ein, das die Väter mit dem Gottesnamen verbinden. Einer, der mit dem Namen Gottes verherrlicht und gepriesen werden darf, ist nicht tot, sondern lebt. Das gilt nur bei Maria (soweit man weiß), weil Maria für die Kirche selbst steht, für ihr endgültiges Gerettetsein, das nicht mehr bloß ausstehende Verheißung ist, sondern schon Tatsache. Bei dieser Betrachtung findet Ratzinger eine Stelle aus dem Kolosserbrief hilfreich: „Ihr seid gestorben und euer Leben ist mit Christus in Gott verborgen“ (Kol 3,3). Diese Bibelstelle will sagen, dass es eine „Himmelfahrt“ des Getauften gibt, von der im Epheserbrief (Eph 2,6) die Rede ist: „Er hat euch mit aufgeweckt und euch in den Himmel zur Rechten Christi Jesu gesetzt.“ Wer getauft ist, hat teil nicht nur an der Auferstehung, sondern auch an der Himmelfahrt Christi und er lebt jetzt schon ein verborgenes Leben im erhöhten Herrn. Damit schließt Ratzinger seinen Gedanken über das Asumptio-Dogma ab und sagt, dass die „ganz Getaufte“ die persönliche Wirklichkeit der wahren Kirche ist, zugleich die nicht bloß versprochene, sondern leibhaftige Heilsgewissheit der Kirche, welche in ihr schon gerettet ist. Das neue Israel wird nicht mehr verworfen, weil es schon in den Himmel aufgefahren ist, worüber es kostbare Vätertexte gibt, die sachlich das biblisch das schon Gegebene entfalten⁴⁷.

Zusammenfassung

Maria ist durch ihre göttliche Mutterschaft, durch die sie mit ihrem Sohn und Erlöser vereint ist, auch mit der Kirche auf das Innigste verbunden. Die selige Jungfrau Maria ist, wie es in der dogmatischen Konstitution *Lumen Gentium* Nr. 63 steht,

(...) der Typus der Kirche unter der Rücksicht des Glaubens, der Liebe und der vollkommenen Einheit mit Christus. Im Geheimnis der Kirche, die ja auch selbst mit Recht Mutter und Jungfrau genannt wird, ist die selige Jungfrau Maria vorangegangen, da sie in hervorragender und einzigartiger Weise das Urbild sowohl der Jungfrau wie der Mutter darstellt. Im Glauben und Gehorsam gebar sie den Sohn des Vaters auf Erden, und zwar ohne einen Mann zu erkennen, vom Heiligen Geist überschattet, als neue Eva, die nicht der alten Schlange, sondern dem Boten Gottes einen von keinem Zweifel verfälschten Glauben schenkte. Sie gebar aber einen Sohn, den Gott gesetzt hat zum Erstgeborenen unter vielen Brüdern, den Gläubigen nämlich, bei deren Geburt und Erziehung sie in mütterlicher Liebe mitwirkt⁴⁸.

⁴⁷ Vgl. JOSEPH RATZINGER, *Die Tochter Zion*, 75-79.

⁴⁸ Vgl. LG Nr. 63.

Wie im ersten Teil dieser Arbeit aufgezeigt wurde, betont Joseph Ratzinger, man müsse die Bibel als Ganzheit lesen, weil die Hl. Schrift das Werk eines einzigen Autors ist. Genauso wichtig akzentuiert Ratzinger die weibliche Linie in der Bibel und die geschichtlich-dynamische Seite der Mariologie. Nach diesen methodischen Aspekten wurden drei inhaltliche Schwerpunkte zur Enzyklika *Redemptoris Mater* dargelegt. In Rahmen dieser drei Schwerpunkte wurde begründet, warum Maria die Glaubende ist, warum das Zeichen der Frau, in der Offenbarung des Johannes, ein wesentliches "Zeichen der Zeit" ist, und warum die Mittlerschaft Marias einzigartig ist.

Ein zweiter Teil des Artikels befasste sich mit den mariologischen Hauptdogmen, in denen die Einheit von altem und neuem Gottesvolk und damit noch tiefer das Geheimnis von Schöpfung und Bund sichtbar wird und zuletzt das Geheimnis des Schöpfers, der in der zukommenden Macht seiner Gnade die freie Antwort der Liebe seines Geschöpfes erweckt. Maria, die Tochter Zion, ist wahre Jungfrau und Gottesmutter. Sie wurde von der Erbsünde befreit und nach ihrer Mitwirkung an Gottes Heilsplan auf dieser Erde in die himmlische Herrlichkeit mit Leib und Seele aufgenommen, damit sie für alle ihre Töchter und Söhne und für die ganze Kirche Heilmittel sein kann.

Im ersten Teil wurde ähnlich wie bei Ratzinger gezeigt, dass Maria als Glaubende ihre freie Antwort auf die Botschaft des Erzengels Gabriel gegeben hat. Das freie „Fiat“ Marias hat den Heilsplan Gottes „ermöglicht“, und dadurch ist die Menschenwerdung Christi Wirklichkeit geworden.

Der zweite Teil illustrierte das Bild der Handlungen Marias sowohl bei den Synoptikerevangelien (außer Markus) als auch im Johannesevangelium und in der Offenbarung des Johannes. In Rahmen dieser biblischen Texte wurde gezeigt, warum Maria mehr als nur die Mutter Jesu ist und warum Maria für das ganze Gottesvolk (des alten und neuen Testaments) Zusammenfassung und Repräsentantin ist.

Der dritte Teil unterstrich, warum die Kirche, und damit jeder Christ und jede Christin implizit gemeint ist, ähnlich wie Maria eine große Aufgabe im Mitwirken für die Menschheit hat. Jedes einzelne Mitglied der Kirche ist durch den Hl. Geist dazu befähigt und aufgerufen, für andere heilsmittlerisch tätig zu sein.

Was die Kirche ist und sein soll, erlebt sie konkret im Hinschauen auf Maria. Sie ist Kirche im Ursprung. Diese Aussage besagt erstens, dass die selige Jungfrau Maria Zusammenfassung, Ausdrucksgestalt und Repräsentantin der Kirche ist. Zweitens weist sie darauf hin, dass die Grundvollzüge Mariens und der Kirche gleich sind:

- ▶ Maria ist Glaubende, und ebenso auch die Kirche.
- ▶ Die Kirche empfängt den Gottessohn, wie Maria es getan hat.
- ▶ Maria bringt als Mutter Christus zur Welt – nicht weniger auch die Kirche, welche aus Gliedern des „Leib Christi“ besteht und damit den „Christus totus“ gebiert.
- ▶ Maria wirkt, ebenso wie die Kirche, am Heilswerk Gottes, der großen Communio von Gott und Welt, mit. Ebenso ist die Kirche.

CHRISTIAN CREATIONISM AND SCIENTIFIC EVOLUTIONISM

*Ciprian FECHETĂ**

Abstract: The question regarding the origin of man is one of the oldest ones. But it came again at the surface of wondering with the anthropological revolution caused by Charles Darwin in the 19th century with his evolutionary theory about natural selection. Nowadays, after more than one century, after the scientific crisis, after the Intelligent design debate, on calmer water, the truth about creationism, evolutionism and their relationship seem clearer. But before assuming a certain position concerning those two it is needed a process of understanding the roots of such visions, their intentions, and their consequences.

Keywords: anthropogenesis, Charles Darwin, Creationism, Evolutionism, human nature, Intelligent Design, physics & metaphysics, the origin of man, Theology & Science.

Introduction

The answer regarding the origin of man was for centuries a matter of religion and the theological answer was the only authority. But once with the discovery of Charles Darwin concerning the natural selection and the laws of biological evolution started a revolution of anthropogenesis. This new perspective got into crisis the theology and its position concerning nature and origin of man. Therefore, this is how it started the tension between Christian Creationism and Scientific Evolutionism. The further questions caused by this tension are: “Who’s right?”, “Do we have a choice?”, “Can be both right?” In this article, I tried to answer such questions. Firstly we must understand what evolutionism and Darwinism are really about. Secondly, extreme positions are to be avoided, as ideological Evolutionism or Theological fundamentalism. Between faith and reason has to be a balance. Hence, between Evolutionism and Creationism, there can be peace.

1. Charles Darwin and the revolution in science anthropogenesis

On the question of the origin of man, until the 19th century, in the European cultural environment, Catholic theology has a monopoly, proposing

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the biblical answer. But once with Charles Darwin, on the background of the increase of the epistemological prospect of British positivism and empiricism, the anthropogenesis dilemma entered the spectrum of sciences, producing a revolution of the size of the Copernican one. If Copernicus's basic discovery was that cosmic creatures were governed by the rotation movement, Darwin's basic discovery was the theory of organic evolution¹. These two revolutions can be seen together as a single two-stage scientific revolution. They are fighting for the autonomy of science in the field of questions which until then theology and philosophy did not want to give up. But this must not lead us to a net antinomic separation between the two of them, but to a complementarity that we will be dealt with later in this article. Darwin takes the Copernican science further by finding natural laws, modeled on the cosmic ones, for biology².

The building of such an epistemological edifice cannot be separated from the cultural framework and the influences around Charles Darwin. In his youth, he was a young man in love for nature, love that will turn into a real career of a naturalist that will find great delight in concluding based on thorough and sustained observations³. That is why it has gone beyond broad responses about life on earth, wanting to contribute to increasing knowledge about nature. These ambitions are also due to the socio-cultural environment which had such expectations of him; more specifically, he wanted to thank his father, a doctor of his profession. Many other scientists around Darwin who helped to train and chisel his critical sense can join the list of the sources of expectations⁴. So the theory of evolution is more than a theory of an ambitious researcher, it is the fruit of a cultural environment, deeply marked by British empiricism.

But, just as no mind leaves anything behind without a handful of writing, the scientific revolution needed Charles Darwin, who devoted his life to science; he wanted to contribute his knowledge, his aim being to serve science, not to attack theology or philosophy. A little proof of this is that, before devoting itself fully to natural sciences, he studied theology (1828-1831) – the Anglican Seminary in Cambridge – for two years, seeking to

¹ Sigmund Freud considers that these two revolutions are two strikes that hurt the ontological ego of man, strikes that shook the pedestal of the anthropocentrism. The first demolished the centrality of his home, the Earth, and the second canceled the privilege of being above all creatures. See S.A. FREUD, „A General Introduction to Psycho-Analysis”, în M. ADLER, ed., *Great Books of the Western World*, vol. 54, Chicago 1993, 562.

² FRANCISCO J. AYALA, *Darwin's Gift to Science and Religion*, tr. ro.: *Darul lui Darwin către știință și religie*, Curtea Veche, București 2008, 59-60.

³ The introductory study of Mircea FLONTA to, *Autobiography of Charles Darwin*, tr. rom.: *Autobiografia lui Charles Darwin*, Humanitas, București 2017, 10-11.

⁴ *Autobiografia lui Charles Darwin* (The introductory study of Mircea FLONTA), 17.

study the laws of nature through the easy rhythm of life there⁵. Unfortunately, the empirical spirit in which he was raised by his father and his educators led him to a coldness toward theology and philosophy that he “did not understand”, the reason for declaring that the time spent was largely a waste of time; But not entirely, because he met Professor Henslow whose friendship led him to Cambridge Ray Club, a scientific circle where his aspirations began to take shape⁶. The next major step he took toward a research achievement was his voyage on the board of the Beagle from 27 December 1831 to 2 October 1836 with Captain Robert Fitzroy⁷. During this journey, it was possible to gather scientific observations based on which the theory of organic development exposed in *The Origin of Species* will be developed. Following what Darwin reported on this trip in his diary we can understand the meaning and origin of applying an evolutionary theory in the anthropological spectrum. They could at least be considered pretexts. For example, the revulsion concerning slavery shows that naturalistic interests did not conflict with the principle of human dignity. And as for the switch from animals to man, it was improved in his case by the meeting with the Fuegians natives which are described by him like this:

Viewing such men, one can hardly make oneself believe that they are fellow-creatures and inhabitants of the same world. It is a common subject of conjecture what pleasure in life some of the lower animals can enjoy: how much more reasonably the same question may be asked with respect to these barbarians! At night five or six human beings, naked and scarcely protected from the wind and rain of this tempestuous climate, sleep on the wet ground coiled up like animals⁸.

Indeed, they cannot be a solid argument for the anthropogenic thesis, but it can explain how Darwin reached such conclusions. Moreover, this was not the way forward for the evolutionary theory and its anthropological implications. To understand Darwin’s *The Descent of Man* underlying we must start from his head-work: *The Origin of Species*, the expression of the theory of natural selection and evolution. The first theory of the evolution that is widely exhibited belongs to a French naturalist named Jean-Baptiste de Monet, Lord of Lamarck (1744-1829). He, in *Philosophie zoologique*, starting from *the legacy of acquired characters*, proposes a

⁵ *Autobiografia lui Charles Darwin*, 89.

⁶ *Autobiografia lui Charles Darwin*, 98.

⁷ *Autobiografia lui Charles Darwin*, 105.; during this voyage Darwin noted all of his discoveries and events in the *The Voyage of a Naturalist Round the World*.

⁸ Charles DARWIN, *A Naturalist’s Voyage Round the World The Voyage Of The Beagle*, 225.

rather metaphysical phrase: life has an inherent tendency to improve itself. His successor will be one of the masters of Darwin: Geologist Sir Charles Lyell⁹. It is the latter who has adapted the evolutionary theory in geology, which Darwin will also do by analyzing the soil types encountered during his journey around the world: the island of Fernando de Noronha, 20 February 1832¹⁰, and debating the comments with Lyell by mail. Based on this geological principle, it sought to demonstrate its biological applicability by comparing different species of plants and animals, comparisons that were regularly sent to researchers in England. And the title under which the biological evolution will lie is to be the “natural selection”, the head-discovery of Charles Darwin:

Can it, then, be thought improbable, seeing that variations useful to man have undoubtedly occurred, that other variations useful in some way to each being in the great and complex battle of life, should sometimes occur in the course of thousands of generations? If such do occur, can we doubt (remembering that many more individuals are born than can survive) that individuals having any advantage, however slight, over others, would have the best chance of surviving and of procreating their kind? On the other hand, we may feel sure that any variation in the least degree injurious would be rigidly destroyed. This preservation of favorable variations and the rejection of injurious variations, I call Natural Selection. Variations neither useful nor injurious would not be affected by natural selection and would be left a fluctuating element, as perhaps we see in the species called polymorphic¹¹.

The direction of this discovery was initially to explain an adaptable organization of the organisms; since natural selection does not directly involve changing and diversifying species. The organisms benefit from modifications favorable¹² to their environmental adaptation for survival and perpetuation. To get to the specialty, meaning to see the emergence of a new species derived from another, a long gradual process must be followed.

Today it is relatively easier to understand the natural process Darwin has developed because we have much more advanced scientific data than it was available to him. And at the base of these, there is an Augustinian monk, Gregor Mendel. When Darwin published *The Origin of Species*, this monk was experimenting with peas in Brunn (Austrian-Hungary) getting to discover the laws of genetics¹³. Seventy years later, the findings of this

⁹ Francisco J. AYALA, *Darwin's Gift to Science and Religion*, tr. ro.: *Darul lui Darwin către știință și religie*, Curtea Veche, București 2008, 50-52.

¹⁰ Charles DARWIN, *A Naturalist's Voyage Round the World The Voyage Of The Beagle*, 11.

¹¹ Charles DARWIN, *The Origin of Species*, Collins Classics, Londra 2011, 77.

¹² Francisco J. AYALA, *Darul lui Darwin către știință și religie*, 68.

¹³ Andreas WAGNER, *Arrival of the Fittest*, tr. ro.: *Ce nu știa Darwin*, Editura Litera, București 2016, 18.

monk have been the basis of molecular biology whose parents are Watson and Crick. DNA research will be developed on this line¹⁴.

Returning to Darwin, however, despite the genetic data shortage, he managed to design the laws of biological evolution on man by using his available observations. But the road to the decision to assert itself and the nature of man has been difficult. *The Origin of Species* does not mention the case of man, by caution. But not all of them showed the same caution in their statements. Shortly after the publication of the theory of natural selection, anthropological assumptions also emerged. In 1863 Charles Lyell publishes *Antiquity of man* in which he states that the discovered human fossils attest to a relatively recent human history. After him, Thomas Henry Huxley talks about man, monkey, and brain in *Evidence as to Man's Place in Nature*¹⁵. Also for the anthropological applicability, Herbert Spencer will give a new name to the natural selection from *The Origin of Species*: "survival of the fittest"¹⁶. Pushed by these and by many others who globalized the evolutionary perspective Darwin publishes: *The Descent of Man*. The position from which it starts is that although the man in his arrogance should be considered a divine creature, appears into him a structure of his animal origin¹⁷. HE was forced to speak out especially when Robert Chambers launched the hypothesis of the origin of the man from the monkey in *Vestiges of the Natural History of Creation*. He is joined by numerous disputes on the subject, the most resounding of which is the episode between Thomas Henry Huxley and Bishop Wilberforce of Oxford who placed man between angel and monkey¹⁸.

The opinion he supports in his work is:

We must, however, acknowledge, as it seems to me, that man with all his noble qualities, with sympathy which feels for the most debased, with benevolence which extends not only to other men but to the humblest living creature, with his god-like intellect which has penetrated the movements and constitution of the solar system—with all these exalted powers—Man still bears in his bodily frame the indelible stamp of his lowly origin¹⁹.

¹⁴ Andreas WAGNER, *Ce nu știa Darwin*, 30.

¹⁵ Charles DARWIN, *The Descent of Man*, Wordsworth Classics of world literature, Londra 2013, XII-XIII.

¹⁶ This formula will be took over by Charles Darwin in further editions of *The Origin of Species*.

¹⁷ Charles DARWIN, *Notebook C*, 196.

¹⁸ The debate is best remembered today for a heated exchange in which Wilberforce supposedly asked Huxley whether it was through his grandfather or his grandmother that he claimed his descent from a monkey. Charles DARWIN, *The Descent of Man*, XI.

¹⁹ Charles DARWIN, *The Descent of Man*, 647.

The main premise is that man must be counted among other organic beings²⁰. And that is precisely the hurt that man's "ego" gets. After having had to give up his cosmic position (with heliocentrism), he is now in a position to give up his privileged status among the creatures. He is counted as one of the other creatures. To this is added the hazardous character of the natural selection to which it is subordinated. Whereas natural selection is an "opportunistic" process, so its specialization is subject to the occurrence²¹; therefore, it would seem that man as a species appeared incidentally, in other words, the man in his glory might not have appeared as a species. And what he wants to make out of this work is, first and foremost, whether man comes from another pre-existing form; secondly, how this process took place; and thirdly, what the specific differences between these human races would be.

The first argument in favor of the thesis of human evolution as a species from a lower organic being is comparative anatomy. Bischoff²² admits, for example, that the structure of the human brain is identical to that of the orangutan. And this is not the only similarity: Man and the Orangutan are compatible with the same diseases. However, men are genetically similar to chimps too, among other things by tastes: the chimpanzees have been noticed to like cigarettes and drinks²³. Other anatomical arguments are the animal rudiments that are found in the human body: the muscles of the forehead, the body hair, the posterior molar, the Appendix vermiform, the coccyx bone (the remnant of the tail). The conclusion they lead to is that we cannot talk about separate creative acts given the similarity of structures²⁴.

Although Darwin's plea makes use of positive, concrete arguments, his reasoning is insufficient, two more puzzles remain that run counter to his hypothesis: the consistent difference between the monkey and man, which, although explained with the available data at that time (proposed only as of the apparent, behaviorist and contextual difference), today when both the monkey and man genome were deciphered, appears as impossible to overlook. Each consists of more than 3 billion letter combinations and differs by more than one percent. It also differs in important aspects that have not been satisfactorily eluded by *The Descent of Man*: language, technology, art, ethics, religion²⁵. And the second dilemma is the brain's leap to

²⁰ Charles DARWIN, *The Descent of Man*, 3.

²¹ Francisco J. AYALA, *Darul lui Darwin către știință și religie*, 94.

²² Theodor Ludwig Wilhelm von Bischoff (28 October 1807 in Hannover – 5 December 1882 in Munich) was a German physician and biologist contemporary with Charles Darwin.

²³ Charles DARWIN, *The Descent of Man*, 11.

²⁴ Charles DARWIN, *The Descent of Man*, 14-25.

²⁵ Francisco J. AYALA, *Darul lui Darwin către știință și religie*, 23-24.

reason. Although Chapter II and III of *The Descent of Man* trying to compare the mental abilities of man and lower animals, it seems to find among lower animals as well: emotions, curiosity, imagination, motivation, progress, language, consciousness, esthetic sense, beliefs, superstitions, morality, sociability, judgment, etc.²⁶; however, it does not explain the leaping that man makes from instinct to rational thinking and which other creatures do not realize. In potency, it would seem that other animals are not far from man, but the present state shows a clear break, impossible to pass. Moreover, these arguments concerning animal intelligence were referred to by Frances Power Cobbe in an Article in 1872 as science fairytales²⁷. We could say the same by seeing man's religion compared to the dog's love of his master²⁸. To us today, who have both a more complex science and a more complex man from the intellectual, cultural, social point of view. According to these Darwin's arguments no longer seem convincing. But despite these changes, the two basic dilemmas remained the same: how could a monkey become man and how his brain gave birth to thought. Even the long-called dispute of the missing link has been clarified: all stages of human development have been discovered²⁹, from "Lucy" – the name given to one of the oldest human fossils – passing through the "connecting link" – *Australopithecus afarensis* – to *Homo sapiens*³⁰.

The responses given by biology concerning these similarities and differences of the man with other organic creatures open the way for a philosophical and theological understanding of man in the splendor of his specificity and uniqueness. Some may place the specific human distinction on the hands of the soul, an entity indistinguishable from science, an entity justified by the mystery side that the human being represents for naturalistic research.

2. „The intelligent design” creationism

Although Darwin had not intended to involve the fruit of his biological research into the horizon of philosophy and theology, it was inevitable. Starting from the innocent principle of the natural selection, the epicenter of Darwin's concerns, it was reached at *The Origin of Species* – an expression of the theory of evolution – then its application to the man debated in *The Descent of Man*. Once the statement of human evolution as a species

²⁶ Charles DARWIN, *The Descent of Man*, 29-83.

²⁷ Frances Power Cobbe (1822-1904) was an Irish writer and a feminist social reformer. Darwin's theory conflicted with the equality of dignity between men and women that she supported: "Women are worse than men; they have smaller brains".

²⁸ Charles Darwin, *The Descent of Man*, 51.

²⁹ Francisco J. AYALA, *Darul lui Darwin către știință și religie*, 23.

³⁰ Francisco J. AYALA, *Darul lui Darwin către știință și religie*, 123-124.

was formulated, there was inevitably a conflict between evolutionism and creationism. What Darwin began timidly and without heart continued the followers, but especially the “performers” of the evolutionary theory.

After Darwin, the academic world and not only was marked by this conflict between evolutionism and creationism. The mere idea of common ancestors for men and monkeys has given rise to a strong reaction in certain traditional religious circles³¹.

To understand the nature of this conflict, we need to understand the parties that are in opposing positions. The issue of evolutionism is not a scientific dimension, although this is what some want³², because regardless of the results of the disputes between creationism and evolutionism, regardless of the percentage of public opinion³³, the theory of evolution is one of the few theories that stand based on scientific evidence. So, this dispute doesn't happen in science laboratories, but in the public domain, more specifically in trial rooms where the trial sentence depends on the evolutionary or creationist majority public opinion. The reason for such a situation relates directly to the reason for the aversion of Darwin's theory: not the theory itself, but its implications, and especially its deviations.

One of the representative trials that staged the conflict is the “monkey trial”, a 1925 trial in Dayton (Tennessee, USA) which judged a teacher for teaching a class of students the evolutionary theory. During this process, a science teacher had prepared a broad plea against evolutionism, which he had never spoken, but which was published *post-mortem*:

Our fifth indictment of the evolutionary hypothesis is that if taken seriously and made the basis of a philosophy of life, it would eliminate love and carry man back to a struggle of tooth and claw. The Christians who have allowed themselves to be deceived into believing that evolution is a beneficent or even a rational, process have been associating with those who either do not understand its application or dare not avow their knowledge of these implications. Let me give you some authority on this subject. I will begin with Darwin, the high priest of evolution, to whom all evolutionists bow³⁴.

In the continuation of this plea, the fight of creationism seems to be not for the scientific veracity, but for the soul of the man who would be affected

³¹ Thomas LEPELTIER, *Darwin hérétique. L'éternel retour du créationnisme*, tr. ro.: *Darwin eretic*, Rosetti Educational, București 2009, 135.

³² Members of the creationism part who'd like to place the conflict in the horizon of science by involving pseudo-scientific proves against evolutionism.

³³ Michael SHERMER, *Why Darwin matters*, tr.ro.: *De ce e Darwin important*, Humanitas, București 2015, 18.

³⁴ Bryan William JENNINGS, „Bryan's Last Speech: The Most Powerful Argument against Evolution Ever Made”, *Skeptic*, IV/2(1996), 88-100.

by the implicit undermining of religion by the evolutionary hypothesis. So, as Calvinist Theologian Charles Hodge says, Darwinism is seen as a form of atheism, and that is enough reason to be countered³⁵.

Another iconic process between evolutionism and creationism was the one in Dover, 2005: „KitzMiller *et al.* Against the regional school district of Dover”. At the heart of the discussion was the publication *Of Pandas and People*³⁶, school support used as a teaching manual of the Intelligent Design in the school. In this process, the authors state that:

Intelligent design means that various forms of life began abruptly through an intelligent agency, with their distinctive features already intact. Fish with fins and scales, birds with feathers, beaks, wings, etc. There may be gaps in evolution, not because many forms of transition have mysteriously failed to fossil, but because they never existed³⁷.

In other words, most of them are not interested in scientific validity, but in the fact that the acceptance of evolutionism might induce their children to give up God³⁸. So, the enemy was not Darwin, but the “derivatives” of his theory. The evolutionary theory, however, thorough studies may be in its horizon, does not have the main focus on the affirmation of atheism. We find in *The Descent of Man* the following statement concerning God:

The question [religious faith in human nature] is of course wholly distinct from that higher one, whether there exist a Creator and Ruler of the universe; and this has been answered in the affirmative by some of the highest intellects that have ever existed.

Therefore, although it challenges the quality of man as *naturaliter religiosus*, questioning whether the man is by nature faithful when it comes to God’s existence does not question it, but places it outside the area of competence, in his own life declaring himself more as an agnostic than an atheist.

Yet the association of evolutionism with atheism is not entirely unfounded but is based on the experience of people regarding the fruits of this theory, the “scientific” justifications of social Darwinism and its derivatives: Militarism, Imperialism, Eugenia³⁹. Among those who have made use of Darwinism in a harmful way for mankind, as the social desolation, were the parents of the great political ideologies that have devastated Europe and not only: Nazism, Fascism, Communism.

³⁵ Thomas LEPELTIER, *Darwin eretic*, Rosetti Educațional, București 2009, 135.

³⁶ Percival William DAVIS – Dean KENYON, *Of Pandas and People*, Houghton, Dallas 1993.

³⁷ Percival William DAVIS – Dean KENYON, *Of Pandas and People*.

³⁸ Michael SHERMER, *De ce e Darwin important*, 47.

³⁹ Michael SHERMER, *De ce e Darwin important*, 49.

As an example of such an instrumentalization, not far from the historical experience of the Romanian people is communism. The mirror of what the process implies, namely additions to Darwin's theory, criticisms, reflexes, is the preface of the work *The Origin of Species* translated during the communist period in Romanian, the preface drafted by the communist scholar Vasile D. Mirza⁴⁰. He highlights the problems of Darwinism – elements that do not fit to the Communist ideology – the fight for the development and spread of Darwinism (or rather the communist form of Darwinism). The great difference between Darwin and Communism was that Darwin placed him outside his area of competence, while communism expelled him out of the possibility of existence.

These would be the main reasons for the aversion against evolutionism: the attempt to eliminate the harmful ideologies and philosophies from the root, the evolutionary theory which scientifically managed to justify any action. It is like attempting to counter Islam because of the terrorist threat. On the other hand, this attitude was well framed by a general opposition to science, the crisis of the anthropocentrism whose pedestal had collapsed, the anguish of natural determinism⁴¹.

Since Darwin until nowadays, the most passionate enemies of evolution are adepts of the "Intelligent Design" whose thesis is that God created the world suddenly, just as we see it today. They bring in favor of this hypothesis scientific arguments that deliberately follow Newton's resignation, which at the end of physical laws, in the absence of an ultimate law, based everything on a miracle of God⁴². The same thing is done by these creationists. The pioneering project is William Paley's *Natural Theology*, who says that only an all-powerful Creator can justify the perfection and functionality of the organisms⁴³. The argument for such a statement refers to one of the metaphysical causes of Thomas of Aquino concerning the being. So, all are "things created by God first, and kept by him till today"⁴⁴.

The argument for this "Intelligent Design" is rather a counter-argument for evolutionism since all scientific reasoning and evidence seek to deny an evolution rather than prove a designer. Among the reasons can be listed: the anthropic principle (man's adaptability would be a mask of the Universe made for man), the project deduction (supported by the false dilemma that it would not be distinguished in nature), the explanatory filter (only a

⁴⁰ Charles DARWIN, *Originea speciilor*, Editura Academiei Republicii Populare Române, București 1957.

⁴¹ Michael SHERMER, *De ce e Darwin important*, 53-54.

⁴² Michael SHERMER, *De ce e Darwin important*, 75.

⁴³ Cf. Francisco J. AYALA, *Darul lui Darwin către știință și religie*, 165.

⁴⁴ John RAY, *Wisdom of God Manifested in the Works of Creation*, 1691.

God can justify the irreducible complexity of nature), the preservation of information (the impossibility of new genetic information coming out of anything), the second law of thermodynamics (entropy) makes evolution impossible⁴⁵.

These judgments claiming a scientific authority – claim that real scientists like Stephen Hawkins have already dismantled them – have also been added biological facts: the perfection of the human eye as an argument of the irreducible complexity that postulates a designer⁴⁶; the gaps in the fossil record that fill the human evolution album, which is no longer a plausible argument, as the “missing link” is no longer missing⁴⁷. Moreover, the argument of the shortcomings, whatever they were invoked, was overtaken by Richard Dawkins’s convergent evidence⁴⁸.

Adding up all these attempts and failures of the Intelligent Design to the conflict in the scientific perspective we come not only to the conclusion of its weak plausibility in the face of evolutionism but also the understanding of the true nature of the Intelligent Design.

The absurdity that their project would be scientific rather than religious is evident in the case of “Dover”, where more detailed attention is asked to reveal that the Intelligent Design and the study of its followers consist of religious strategies stemming from previous forms of creationism. The promotion of religion is sought at the expense of science, eventually presenting them as adversaries in the horizon of truth⁴⁹. They try to transfer in the field of science the conflict between Christianity and secular humanism that they read in evolutionism. But science is not a religion, and in this context, it is a collateral victim.

The argument that the Intelligent Design is not about science was prompted by another trial in the tension between creationism and evolutionism, a trial in Arkansas in 1981 that was based on US Law No. 590, which provided for a fair time allocated to creationism and evolutionism in the school schedule. This law was attacked by the claim that creationism is not science. True science is described through several points in this context: compliance with the laws of nature, explanations in terms of natural (not supernatural) laws, testable in the empirical world, acceptance of the provisional status of the conclusions, falsification. But creationism has entrenched in unquestionable axioms defended by offensive (attacking

⁴⁵ Michael SHERMER, *De ce e Darwin important*, 77-112.

⁴⁶ Francisco J. AYALA, *Darul lui Darwin către știință și religie*, 174-178.

⁴⁷ Michael SHERMER, *De ce e Darwin important*, 32-33.

⁴⁸ Richard DAWKINS, *The Ancestor's Tale: A Pilgrimage to the Dawn of Evolution*, Houghton Mifflin, Boston 2004.

⁴⁹ Francisco J. AYALA, *Darul lui Darwin către știință și religie*, 166-167.

evolutionism). The accusation against favoring the Intelligent Design in school was: „The law unacceptably supports religion by advancing religious belief that a supernatural being created humanity”⁵⁰.

Defensive speeches in which the Intelligent Design seeks to separate itself from religious creativity appear to be the last safeguard of its scientific status, but an unsuccessful attempt. If the insufficient arguments, the direct attacks on science, the interference of natural and supernatural in a speech that is intended to be naturalistic do not convince the true nature of this project, then more telling can be two concrete aspects: political and economic. Since the theory of the Intelligent Design failed to gain ground among scientists, it turned to political strategies, turned to legislative power, and the advantage of the majority, and in this way trying to impose this theory by law⁵¹. Or a real scientific theory will never choose such an affirmation, but a real scientific theory is self-imposed.

The second is the economic fact: the route of money. While asserting scientific interests, behind the funding of all evidence contrary to evolutionism (since any research requires resources), the followers of the Intelligent Design are supported in their research by traditional religious associations, especially by the evangelical Christians, who do not avoid stating their intentions with which such donations are made: „to contribute to the preaching of the Christian Gospel”, „the full integration of the Bible law in our lives”⁵². All these betray the true identity of the Intelligent Design: a religious movement disguised as science.

The mistake of the Intelligent Design is not the promotion of Christianity, nor the support for creationism, but the fight against evolutionism. Christianity and evolutionism are not enemies. Faith and science are not mutually exclusive but must engage in constructive dialog. As in any dialog, it must be based on ownership of identity and mutual respect. The wrong approach of Intelligent Design is to confuse religion with science and vice versa. The dialog between creationism and evolutionism is complementary, not contradictory.

The statement of a biology teacher in a Christian educational institution can be put forward as a summary of this:

As a Christian, part of my system of beliefs is that God has the ultimate responsibility. But as a biologist, I must examine the evidence. Scientifically speaking, I do not think that Intelligent Design is very useful because it does not offer things that are refutable – there is no way to show that they are counterfeited.

⁵⁰ Michael SHERMER, *De ce e Darwin important*, 124-125.

⁵¹ Michael SHERMER, *De ce e Darwin important*, 116.

⁵² Michael SHERMER, *De ce e Darwin important*, 116.

Extracting deductions from divinity does not seem to me to be the function of science, because it is very subjective⁵³.

Once properly perceived the functions of science and theology, their responses to the origin of the world and, implicitly, man, complete each other: thus, the scientific theory of evolution does not contradict God's role as Creator, and theology can state the freedom of science.

So, to be able to affirm the possibility of a theological response on the origin of man without conflicting with Darwin's theory, we need to understand the difference between a theological and scientific response.

3. The compatibility between creationism and evolutionism

Despite what scientific findings attest based on natural evidence, the Christian cannot claim God without claiming that he is *the Creator of heaven and earth*:

The significance is that creation is the foundation of all God's saving plans. It shows forth the almighty and wise love of God, and it is the first step toward the covenant of the one God with his people. It is the beginning of the history of salvation which culminates in Christ; and it is the first answer to our fundamental questions regarding our very origin and destiny⁵⁴.

It is one of the central declarations of the faith of all Christian confessions, so it is an indisputable belief. This raises the question of its alignment with the evolving data of science, leading to the conflict between religion and science mentioned above. But the real problem is the narrow perception of the creationism idea that is often confused with a strict package of beliefs⁵⁵. It is enough to note the various conclusions reached by the meeting between scientific evolutionism and Christian creationism.

A first conclusion we have already seen in the previous chapter is the war between creationists – especially followers of Intelligent Design – and evolutionists, in which scientific and pseudo-scientific debates interfere with religious apologies⁵⁶.

Another type of conclusion is the attempt to merge between evolutionism and creationism. This model states that religion and science are two ways of looking at the same reality. In this way, the „days” of the Biblical story of the creation in Gen 1 could be metaphors of some great biological

⁵³ Michael SHERMER, *De ce e Darwin important*, 138.

⁵⁴ *Compendium of the Catechism of the Catholic Church*, No. 51.

⁵⁵ Denis ALEXANDER, *Creation and evolution. Do we have to choose?*, tr.ro.: *Creație sau evoluție. Trebuie să alegem?*, Curtea Veche, București 2010, 11.

⁵⁶ Thomas LEPELTIER, *Darwin eretic*, 7-8.

era⁵⁷. This scheme is also adopted Yuval Noah Harari in *Sapiens*, using biblical images in the headings of chapters describing epoch of evolution on earth: „the tree of knowledge”, „a day of the life of Adam and Eve”, „the Flood”⁵⁸.

Samuel Butler (1835-1902), who had initially been a supporter of pure Darwinism, returning to Charles Darwin's Lamarckian bases, laid the foundation for the concept of creative evolution or of „orthogenesis”. According to this conception, living organisms would have been endowed by God with his own creative capacity, thus becoming the intermediary agents of God's creation, the evolution is understood in this sense as the very creative act committed by God⁵⁹. God is considered in this landscape as the “Grand Clockmaker” at the end of Newton's plea, who, once the project of creation is launched, becomes a distant God, beyond the cosmos.

On the other hand, if we go along the line of scientific creativity, the argument discourse, subjected to logical discursiveness, leads, in an attempt to reconcile religion with science, to the naturalization of divinity. The result of such an investigation is the identity between God and the laws and forces of nature. And this sentence coincides with the pantheism and denial of a personal God⁶⁰.

Between this ontological parallelism and the pantheism that lies at the other extreme, the concept of panentheism is placed: „creation is part of God, but not exhaust the infinite of his being”⁶¹. This panentheism is itself presented in three versions, thus increasing the extent of variations in the horizon of reconciliation by the fusion of religious creationism and evolutionary science. The three versions are *the soteriological panentheism* (creation is “in God” not as implicit but as free of divine nature, and this creation is continuous, and is in a constant process of perfection until it manifests its true divine nature); *expressionist panentheism* (based on German idealism affirms that in creation the divine spirit is expressed as a source and culmination in God); and *bipolar panentheism* (God who is concomitant, timeless and identical to himself, but also temporal, spatial and influenced by the world)⁶². Despite these apparent solutions, the path of fusion is not entirely satisfactory, since both theological and scientific discourse, carried out to the end and spared by the blade of compromise,

⁵⁷ Michael SHERMER, *De ce e Darwin important*, 147.

⁵⁸ Yuval Noah HARARI, *Sapiens. Scurtă istorie a omenirii*, Polirom, București 2017.

⁵⁹ Thomas LEPELTIER, *Darwin eretic*, 122-123.

⁶⁰ Michael SHERMER, *De ce e Darwin important*, 150.

⁶¹ Niels Henrik GREGERSEN, *Dumnezeu într-o lume evoluționistă*, Curtea Veche, București 2007, 13.

⁶² Niels Henrik GREGERSEN, *Dumnezeu într-o lume evoluționistă*, 15-16.

leaves no room for such reconciliation. The major risks involved in such a process are: pantheism, naturalization of God, God as the null hypothesis in the scientific speech, calling for a miracle as a scientific argument; all can be summarized to a compromising mixture for both science and religion between natural and supernatural.

A third possible conclusion is the pattern of the separate worlds. This model was named by Stephen Jay Gould “nonoverlapping Magisteria”⁶³. Although religion has sought to respond in most respects until centuries ago, now, faced with science, it must clearly outline its epistemological area of competence and recognize its status as real science. In other words, a clear distinction must be made between science and religion and between their areas of competence, without any conflict but with a meaningful dialog and fruitful cooperation⁶⁴.

The conflict between science and religion marked the 20th century, but since a few decades ago, things have started to change under this pattern of separate worlds⁶⁵. This conversion of attitude is fundamentally anchored in a clarification of the concept of creation itself, concerning the evolution and, above all, in the perspective of Christian theology.

Divine creation, first of all, is not a scientific hypothesis that could be subjected to the empirical criterion of falsification, as expressed by the philosopher Karl Popper⁶⁶. The creation does not refer to a physical transformation of things, nor a movement of forces, nor a change of background or surface. But creation extends beyond the particular phenomena and interrelated links between things; it is not about the beings that already exist or about their changing, but the very mystery of existence. As Aldous Huxley wrote: „The only mystery is one of the evolving matters containing the potentialities of the spirit”⁶⁷. By this, the identity of the creation appears metaphysical, which is beyond the physical nature of the evolutionary naturalism. In the horizon of metaphysics, nothing can exist by itself. We perceive this when we become aware of our existence – „I am” – which does not come from us but depends on an outside being⁶⁸. Thus from the concrete being, which is the creation, the passage is made to the being itself – God-Creator. This passage is not empirical nor experimentally verifiable⁶⁹.

⁶³ Stephen Jay GOULD, „Nonoverlapping Magisteria”, *Natural History*, nr. 2(1997), 16-22.

⁶⁴ Michael SHERMER, *De ce e Darwin important*, 147-148.

⁶⁵ Jean GUITTON – Grichka BOGDANOV – Igor BOGDANOV, *Dieu et la science*, Grasset, Paris 1991, 30.

⁶⁶ Michael SHERMER, *De ce e Darwin important*, 148.

⁶⁷ Marie-Joseph NICOLAS, o.p., *Évolution et Christianisme*, Fayard, Paris 1973, 2.

⁶⁸ Marie-Joseph NICOLAS, o.p., *Évolution et Christianisme*, 2.

⁶⁹ Battista MONDIN, *Manual de Filozofie Sistematică 3: Ontologie, Metafizică*, Sapientia, Iasi 2008, 162.

For this reason, the speech of the creative process attributed to the Creator can no longer be developed in the horizon of the speech of creation itself, which is, of natural science. Going forward, a scientific discourse limited by physical concepts proves that metaphysics may be unreasonable, as a change in the perspective of being must also lead to a change in the epistemological perspective⁷⁰. Otherwise, the physical argument of the metaphysical Creator could cause an overturn of the situation by inevitably closing down the reasoning within the boundaries of materialism⁷¹.

Therefore, the creative model, which fits in a parallel plan to that analyzed by natural science, refers not to be made in a certain way, but to be a part of the very fact of *being*, beyond any other category of being and any process endured by created beings, according to the three metaphysical principles: causality, participation, and finality⁷². In Teilhard de Chardin's terms, the creationism which theology supports – set in parallel to science – is described as follows: „to be created within the Universe is to find in that *transcendental relationship* with God that configures and shares us, and anchor us in the very master of his own being”⁷³.

Once this horizon of creativity has been established, by placing it following evolutionism, some consequences can be drawn, because of the interdependency between physical and metaphysical. The first consequence is that the creative act thus becomes a continuous act. Because, for the creature, beyond any physical evolutive processes would endure, the very act of *existence* remains unaltered and permanently dependent on the divine act of being. It is a *present relationship* with the absolute being. In whatever way the creature may be, and by man excellence, these specifications are, become, and differ under the potency of God-Creator. Another consequence is the link between creation and any creative evolutionary process: at the end of the argument and questions concerning the origin, there is a threshold between nothing and existence, which only God, the uncaused being in itself, can cause⁷⁴. This is the true faith in the divine creation: not that of a God who „rolls up his sleeves” and weeps the creation out of the “clay of nothing”, but that of the transcendence of God which created everything from nothing, which *was not* previously he made it *be*⁷⁵. Applying this principle to man, we see that God is his Creator not in the light of an *ad litteram* reading of *Gen* 1-3, but under his being dependent upon the

⁷⁰ Marie-Joseph NICOLAS, o.p., *Évolution et Christianisme*, 3.

⁷¹ Marie-Joseph NICOLAS, o.p., *Évolution et Christianisme*, 3.

⁷² Battista MONDIN, *Manual de Filozofie Sistematică 3: Ontologie, Metafizică*, 162.

⁷³ Teilhard de CHARDIN, *vision du passé*, Seuil, Paris 1957, 188.

⁷⁴ Marie-Joseph NICOLAS, o.p., *Évolution et Christianisme*, 5-6.

⁷⁵ Claudiu DUMEA, *Pagini dificile ale Vechiului Testament*, Sapientia, Iasi 2011, 28.

being itself as being. And a third conclusion that we can draw from this relationship between physics and metaphysics is that if we cannot make a physical speech about God the Creator, we cannot say anything about the creative process itself. This process is the transition from transcendent to immanent, but which remains entirely dependent on the transcendence of the Creator. And if the creative act belongs to the transcendent Creator, the act itself is transcendent and therefore cannot be shaped in physical terms. That means, we cannot say scientifically how God created, and under no circumstances can we establish an identity relationship between the world as we see it today and the „world of the first day of creation”⁷⁶. We know that God is the cause of the being of all things seen and unseen⁷⁷; he continues the creative act by permanently sharing his being to all things created; he is the deplorable part of the being toward which all tends through continuous perfection. Thus, creationist belief makes way for the natural acts that science captures. So the world is not static, but dynamic, dependent on God, but autonomous in its laws and phenomena. Science is right to analyze these laws and phenomena, but not the horizon beyond them, as Pope John Paul II asserts: “Observation-based sciences describe and measure multiple life manifestations with increasing precision and correlate them with the timeline. The moment of transition to the spiritual cannot be the subject of this kind of observation”⁷⁸.

In this speech, the Pope claims that for a reconciliation between science and theology in the context of the evolution-creation dispute the solution is that the body and soul should be ontologically distinguished, that is to say, be placed in different horizons, without creating split and dualism in man. The man remains the same, unique and complete, but is looked at from two different prisms: one scientific which analyzes the biological aspect of evolution, and one theological one which concerns the existence of man as *imago Dei*. Thus, we can serve the discovery of the anthropogenesis both the naturalistic discoveries and the Christian creative faith since the epistemological horizons have been clearly outlined⁷⁹.

And the fact that Christians, without any risk of compromise of their own religious identity, can accept evolutionism is not only theoretically and speculative, but also practical. A 1996 study in the US reached the

⁷⁶ Marie-Joseph NICOLAS, o.p., *Évolution et Christianisme*, 7.

⁷⁷ After the confession of the belief of the *ceneo-constantinopolitan symbol*, „I believe in one God, the Father of the Almighty, the Creator of heaven and earth, of the seen and of the unseen”.

⁷⁸ JOHN PAUL II, *Pope John Paul II's message to members of the Pontific Scientific Academy* (October 22, 1996): <http://www.vatican.va> [accessed on 25.03.2020].

⁷⁹ Michael SHERMER, *De ce e Darwin important*, 151-152.

following result: 39% of US scientists supporting evolutionism believe in God⁸⁰. Other such surveys conducted in the years after the fall of the year revealed that in practice, people do not have difficulties in accepting both scientific evolutionism and the creationism of their Christian faith in their private life. This shows that there should not be an incompatibility between Christian faith and scientific findings, but can, on the contrary, be engaged in fruitful cooperation. On the one hand, the new scientific discoveries, which are increasingly extensive, instead⁸¹ of exhausting any space offered to God, open up the wider areas, becoming the expression of God as *mysterium tremendum atque fascinans*. On the other hand, the separation between religion and science is necessary, since if God were restricted to a scientific speech, then he would have been limited by the Spatial-temporal boundaries of our language, he would not have been perceived as eternal, omnipotent, omniscient, etc.; and the materialism of science, without being perceived as exclusive, it was necessary for us to distinguish the transcendence of God⁸².

Conclusion

In conclusion, the scientific revolution and the removal of Charles Darwin's anti-centric pedestal, by putting its theology and responses to the crisis, has succeeded in bringing the true nature of theology and its answers to the eye. Thus, like a patient who has suffered in a doctor's healing process, we must not enter into a conflict but reap the benefits of a painful process. Once he has assumed his own identity, from both science and theology, the dialog he leads to will be fruitful. Only under such a fair relationship between science and theology can each state an appropriate response to the great subjects, including the origin of man.

⁸⁰ Michael SHERMER, *De ce e Darwin important*, 153.

⁸¹ The fascination of the mystery of nature that talks of the mystery of the supernatural God, read in quantum physics J. GUITTON – G. BOGDANOV – I. BOGDANOV, *Dieu et la science*.

⁸² Michael SHERMER, *De ce e Darwin important*, 157.

